

No. 17-14194

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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CAROL WILDING, *et al.*,

Appellants/Plaintiffs,

vs.

DNC SERVICES CORPORATION, *et al.*,

Appellees/Defendants.

---

Appeal from the United States District Court  
for the Southern District of Florida

---

**APPELLANTS/PLAINTIFFS' APPENDIX VOLUME IV**

---

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**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE  
DISCLOSURE STATEMENT**

To the best of undersigned's knowledge, the following is a complete list of the trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have or may have an interest in the outcome of this case, including subsidiaries, conglomerates, affiliates, and parent corporations, including any publicly held company that owns 10% or more of the party's stock, and other identifiable legal entities related to a party.

1. Kimberly Alberts, Plaintiff/Appellant.
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4. Kayite Ashcraft, Plaintiff/Appellant.
5. Lester John Bates, Plaintiff/Appellant.
6. Beck & Lee P.A., trial and appellate counsel for Plaintiffs/Appellants.
7. Elizabeth Lee Beck, trial and appellate counsel for Plaintiffs/Appellants.
8. Jared H. Beck, trial and appellate counsel for Plaintiffs/Appellants.
9. Mark Bedard, Plaintiff/Appellant.
10. Nancy Berners-Lee, Plaintiff/Appellant.

11. Jen Betterley, Plaintiff/Appellant.
12. Harris Bierhoff, Plaintiff/Appellant.
13. Timothy Bingen, Plaintiff/Appellant.
14. Stephanie Birdsong, Plaintiff/Appellant.
15. Marianne Blair, Plaintiff/Appellant.
16. Richard Booker, Plaintiff/Appellant.
17. Barbara Bowen, Plaintiff/Appellant.
18. Richard Boylan, Plaintiff/Appellant.
19. Matthew Joseph Brady, Plaintiff/Appellant.
20. Kyle Braund, Plaintiff/Appellant.
21. Chris Bubb, Plaintiff/Appellant.
22. Tristan Burgener, Plaintiff/Appellant.
23. D.J. Buschini, Plaintiff/Appellant.
24. Bruce Busto, Plaintiff/Appellant.
25. Joseph Callan, Plaintiff/Appellant.
26. Mark R. Caramanica, counsel for Defendants/Appellees.
27. Patricia Cassidy, Plaintiff/Appellant.
28. Susan Catterall, Plaintiff/Appellant.
29. Vincent Cauchi, Plaintiff/Appellant.
30. Cynthia Chan, Plaintiff/Appellant.

31. Torsha Childs, Plaintiff/Appellant.
32. Karlie Cole, Plaintiff/Appellant.
33. Aimee Coleman, Plaintiff/Appellant.
34. Rosalie Consiglio, Plaintiff/Appellant.
35. Daniel Cooper, Plaintiff/Appellant.
36. Yalonda Dye Cooper, Plaintiff/Appellant.
37. Suzanne Cork, Plaintiff/Appellant.
38. Rhiannon Crandall, Plaintiff/Appellant.
39. William Crandall, Plaintiff/Appellant.
40. Sharon Crawford, Plaintiff/Appellant.
41. Phyllis Criddle, Plaintiff/Appellant.
42. John Crowe, Plaintiff/Appellant.
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44. Craig Richard Currier, Plaintiff/Appellant.
45. Catherine Cyko, Plaintiff/Appellant.
46. Heather Dade, Plaintiff/Appellant.
47. Alecia Davis, Plaintiff/Appellant.
48. Sherry Davis, Plaintiff/Appellant.
49. Tammy Deitch-Coulter, Plaintiff/Appellant.

50. DNC Services Corporation, Defendant/Appellee.
51. Kathleen Dodge, Plaintiff/Appellant.
52. Diane Emily Dreyfus, Plaintiff/Appellant.
53. Dan Ellis Dudley, Plaintiff/Appellant.
54. Amalie Duvall, Plaintiff/Appellant.
55. Marc. E. Elias, counsel for Defendants/Appellees.
56. Eliza Feero, Plaintiff/Appellant.
57. Erik Michael Ferragut, Plaintiff/Appellant.
58. Elizabeth Figueroa, Plaintiff/Appellant.
59. Diana Flores, Plaintiff/Appellant.
60. William Scott Franz, Plaintiff/Appellant.
61. Susan Frisbie, Plaintiff/Appellant.
62. Elisabeth C. Frost, counsel for Defendants/Appellees.
63. Erik Furreboe, Plaintiff/Appellant.
64. Lisa Gale, Plaintiff/Appellant.
65. Laura Genna, Plaintiff/Appellant.
66. Ryan Ghan, Plaintiff/Appellant.
67. Joseph Gleason, Plaintiff/Appellant.
68. Jeffrey Goldberg, Plaintiff/Appellant.
69. Estrella Gonzalez, Plaintiff/Appellant.

70. Jose Alberto Gonzalez, Plaintiff/Appellant.
71. Prabu Gopalakrishnan, Plaintiff/Appellant.
72. Luke Grim, Plaintiff/Appellant.
73. Lucille Grooms, Plaintiff/Appellant.
74. Anthony Grudin, Plaintiff/Appellant.
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82. Rebecca Hohm, Plaintiff/Appellant.
83. Kim Marie Houle, Plaintiff/Appellant.
84. Stephen Houseknecht, Plaintiff/Appellant.
85. Lewis Humiston, Plaintiff/Appellant.
86. United States Magistrate Judge Patrick M. Hunt.
87. Kirsten Hurst, Plaintiff/Appellant.
88. Benjamin Ilarraza, Plaintiff/Appellant.

89. Bakh Inamov, Plaintiff/Appellant.
90. Danielle Ingrassia, Plaintiff/Appellant.
91. Carolyn Jacobson, Plaintiff/Appellant.
92. Tukoi Jarrett, Plaintiff/Appellant.
93. Timo Johann, Plaintiff/Appellant.
94. Tamara Johnston, Plaintiff/Appellant.
95. Heather Jordan, Plaintiff/Appellant.
96. Rana Kangas-Kent, Plaintiff/Appellant.
97. Brandy Kincaid, Plaintiff/Appellant.
98. Amber Rae Knowlton, Plaintiff/Appellant.
99. Theda Larson-Wright, Plaintiff/Appellant.
100. Peggy Lew, Plaintiff/Appellant.
101. Melissa Liang, Plaintiff/Appellant.
102. Sarah Lopez, Plaintiff/Appellant.
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105. John Lynch, Plaintiff/Appellant.
106. Sean Lynch, Plaintiff/Appellant.
107. Christine Maiurano, Plaintiff/Appellant.
108. Melissa Marcotte, Plaintiff/Appellant.

109. Raymond Maxwell, Plaintiff/Appellant.
110. Lisa Anne Meneely, Plaintiff/Appellant.
111. David Meuli, Plaintiff/Appellant.
112. Greta Mickey, Plaintiff/Appellant.
113. Carl Miller, Plaintiff/Appellant.
114. Teri Monaco, Plaintiff/Appellant.
115. Angela Monson, Plaintiff/Appellant.
116. Brittany R. Musick, Plaintiff/Appellant.
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118. Daniel O'Meara, Plaintiff/Appellant.
119. Andrew Orrino, Plaintiff/Appellant.
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121. Steve Philipp, Plaintiff/Appellant.
122. Susan Phillips, Plaintiff/Appellant.
123. Jane Ellen Plattner, Plaintiff/Appellant.
124. Alette Prichett, Plaintiff/Appellant.
125. Kenneth Puckett, Plaintiff/Appellant.
126. David Pulaski, Plaintiff/Appellant.
127. David Pyles, Plaintiff/Appellant.
128. Valerie Elyse Rasch, Plaintiff/Appellant.

129. Michael Reed, Plaintiff/Appellant.
130. Susan Reed, Plaintiff/Appellant.
131. Daniel Reynolds, Plaintiff/Appellant.
132. Stanley Rifken, Plaintiff/Appellant.
133. Diane Robinson, Plaintiff/Appellant.
134. Rachel Roderick, Plaintiff/Appellant.
135. Jeff Rogers, Plaintiff/Appellant.
136. Dominic Ronzani, Plaintiff/Appellant.
137. Susan Lynne Roppel, Plaintiff/Appellant.
138. Andrew Rousseau, Plaintiff/Appellant.
139. Deborah Wasserman Schultz, Defendant/Appellee.
140. Lisa Settle, Plaintiff/Appellant.
141. Julianna Seymour, Plaintiff/Appellant.
142. Matthew Shaw, Plaintiff/Appellant.
143. Zeke Shaw, Plaintiff/Appellant.
144. James Simon, Plaintiff/Appellant.
145. Susan Singer, Plaintiff/Appellant.
146. Erika Sitzer, Plaintiff/Appellant.
147. Brenda Lee Smith, Plaintiff/Appellant.
148. Elesha Snyder, Plaintiff/Appellant.

149. Erich Sparks, Plaintiff/Appellant.
150. Bruce Spiva, counsel for Defendants/Appellees.
151. Marlowe St. Cloud Primack, Plaintiff/Appellant.
152. Alaina Talboy, Plaintiff/Appellant.
153. Felicia Michelle Taylor, Plaintiff/Appellant.
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165. Carol Wilding, Plaintiff/Appellant.
166. Catherine Willott, Plaintiff/Appellant.
167. AnnMarie Wilson, Plaintiff/Appellant.
168. Graham Wilson, counsel for Defendants/Appellees.

169. Gregory Witkowski, Plaintiff/Appellant.
170. Emma Young, Plaintiff/Appellant.
171. United States District Court Senior Judge William J. Zloch.

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DATED: January 26, 2018

Respectfully submitted,

/s/ Jared H. Beck

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**TAB/DOCKET NO.**  
**68**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA

3 CASE NO. 16-61511-CV-ZLOCH

4 CAROL WILDING, et al.,

Fort Lauderdale, Florida

5 Plaintiff(s),

August 23, 2016

6 vs.

7 DNC SERVICES CORPORATION,  
8 d/b/a, DEMOCRATIC NATIONAL  
9 COMMITTEE, et al.,

Defendant(s).

10 MOTION HEARING  
11 BEFORE THE HONORABLE WILLIAM J. ZLOCH  
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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RICARDO VILLALBA CABRAL

BY MR. O'BRIEN	22		30	
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1 Thereupon,

2 the following proceedings began at 10:59 a.m.:

3 THE COURT: Good morning. Please be seated.

4 Calling case No. 16-61511-Civil. Counsel, would you  
5 note your appearances.

6 MR. O'BRIEN: Good morning, Your Honor. Cullin  
7 O'Brien for the plaintiffs.

8 MR. HERNANDEZ: Antonio Hernandez for the plaintiffs,  
9 Judge.

10 MS. BECK: Elizabeth Beck for the plaintiffs.

11 MR. BECK: Jared Beck for the plaintiffs.

12 THE COURT: Good morning.

13 MR. SPIVA: Good morning, Your Honor. Bruce Spiva  
14 from Perkins, Coie for the DNC and Congresswoman Debbie  
15 Wasserman Schultz.

16 THE COURT: Good morning.

17 MR. THOMAS: Gregg Thomas on behalf of both the  
18 defendants.

19 THE COURT: Good morning. Please be seated.

20 MR. O'BRIEN: Thank you, Your Honor.

21 THE COURT: We are here this morning pursuant to the  
22 defendants' motion which the Court -- the defendants' motion to  
23 dismiss which the Court has considered a motion to quash  
24 service of process. The Court has set an evidentiary hearing  
25 on the motion to quash. Is the plaintiff ready?

1 MR. O'BRIEN: Yes, Your Honor. I apologize for being  
2 late. We were outside getting some stipulations to try to move  
3 this along.

4 THE COURT: That is fine.

5 MR. O'BRIEN: May I present some of the stipulations  
6 to Your Honor?

7 THE COURT: Sure. Go right ahead.

8 MR. O'BRIEN: Thank you, Your Honor.

9 So we plan to show Your Honor a video of the service  
10 of process event. The defendants stipulate to it coming in,  
11 admissibility, except there are some statements that are made  
12 by the people on the video that the defendants want not  
13 considered by this Court. We would have no objection to that.

14 THE COURT: That is fine.

15 MR. O'BRIEN: And then we have a witness -- I'm sorry.

16 THE COURT: Just a moment. Has the video been marked  
17 as a plaintiffs' exhibit? Is it a CD or DVD?

18 MR. O'BRIEN: It's on a jump drive.

19 THE COURT: Okay. And that is going to have to be  
20 marked as Plaintiffs' No. 1.

21 MR. O'BRIEN: Yes, Your Honor, Plaintiffs' 1.

22 THE COURT: Any objection?

23 MR. SPIVA: No objection, Your Honor, assuming this is  
24 the YouTube video because there are some other video exhibits  
25 that I understand the plaintiffs are intending to --

1 MR. O'BRIEN: I think you mean Facebook. I think you  
2 may have it reversed.

3 MR. SPIVA: I thought you were talking about the  
4 YouTube. Assuming we are talking about the Facebook Live  
5 stream, we don't have objection to that with the exception  
6 of --

7 THE COURT: The statements.

8 MR. SPIVA: There's some verbiage about the DNC has  
9 accepted service. That is our objection to that.

10 THE COURT: You can point that out to the Court during  
11 the video.

12 MR. SPIVA: Will do, Your Honor.

13 THE COURT: That's fine. Plaintiffs' 1, being a thumb  
14 drive, is in evidence.

15 (Thereupon, Plaintiffs' 1 received in evidence.)

16 MR. O'BRIEN: Thank you, Your Honor. The second  
17 stipulation, Your Honor, would be a police report regarding the  
18 death of the process server as well as an email confirming same  
19 to plaintiffs' counsel. The defendants do not object to that  
20 coming into evidence.

21 THE COURT: All right. And what exhibit number is  
22 that?

23 MR. O'BRIEN: May we make that, Your Honor, Exhibits 2  
24 and 3?

25 THE COURT: That will be fine.

1 MR. O'BRIEN: Thank you, Your Honor.

2 THE COURT: For the record, Plaintiffs' 2 is?

3 MR. O'BRIEN: The police report that was attached to  
4 our response. I don't want to mischaracterize it, but we would  
5 say it's a police report of the death of the process server.

6 THE COURT: All right. That is Plaintiffs' 2. Is  
7 there any objection?

8 MR. SPIVA: No objection, Your Honor. My  
9 understanding is it's being offered to show his availability.

10 THE COURT: Plaintiffs' 2 is in evidence.

11 (Thereupon, Plaintiffs' 2 received in evidence.)

12 THE COURT: And Plaintiffs' 3?

13 MR. O'BRIEN: Your Honor, it would be an email from  
14 the D.C. police attaching the police report to plaintiffs'  
15 counsel confirming that the death report is a person by the  
16 name of Shawn Lucas.

17 THE COURT: Any objection?

18 MR. SPIVA: No objection, Your Honor.

19 THE COURT: Plaintiffs' 3 is in evidence.

20 (Thereupon, Plaintiffs' 3 received in evidence.)

21 MR. O'BRIEN: With respect to what is going -- what we  
22 ask Your Honor to consider on the video, the defendants have  
23 stipulated that the woman towards the end of the video is  
24 Ms. Rebcca Herries. And they have also stipulated that the  
25 gentleman who is bald is the Shawn Lucas that is in the police

1 report.

2 THE COURT: Okay.

3 MR. O'BRIEN: So that takes care of a bunch of  
4 exhibits.

5 THE COURT: Fine.

6 MR. O'BRIEN: And then we do have a dispute, Your  
7 Honor, on the last exhibit. It would be an email that was  
8 obtained on Wikileaks. I believe the defendant -- I'll let the  
9 defendants state their position, but the nature of the dispute,  
10 as I understand it, the defendants --

11 THE COURT: Would you be offering this email?

12 MR. O'BRIEN: I want to offer it. And I don't want to  
13 just offer it just to show that Rebecca Herries was the special  
14 assistant to the then CEO. The purpose that I want to offer it  
15 for is that we believe the email speaks for itself. It shows  
16 Ms. Herries organizing a staff-wide meeting.

17 And our argument would be, based on that, that  
18 Ms. Herries is someone who would have that sort of authority to  
19 accept service. That would be the purpose for which we would  
20 want to issue the -- have the email into evidence.

21 But there is a dispute. They object to it coming into  
22 evidence. They would stipulate that Ms. Herries is the special  
23 assistant -- was the special assistant to the then CEO of the  
24 DNC, but beyond that --

25 THE COURT: Just slow down a little bit. Take a deep

1 breath.

2 MR. O'BRIEN: Sorry, Your Honor, too much coffee.

3 THE COURT: That's all right. Slow down for the court  
4 reporter. Finish your statement though.

5 MR. O'BRIEN: Thank you, Your Honor. The defendants  
6 would at least stipulate that Ms. Herries at the time of the  
7 disputed service of process event was the special assistant to  
8 the then CEO. But beyond that, they object to anything else.  
9 So we may ask Your Honor to rule in advance about the email or  
10 however Your Honor wants to handle that.

11 THE COURT: All right. Do you want to have that  
12 marked as an exhibit? You would intend to offer it if allowed?

13 MR. O'BRIEN: Yes, Your Honor.

14 THE COURT: And that would be Plaintiffs' 4?

15 MR. O'BRIEN: 4, Your Honor.

16 THE COURT: And this is an email from?

17 MR. O'BRIEN: Ms. Herries.

18 THE COURT: To?

19 MR. O'BRIEN: Staff at the DNC.

20 THE COURT: First of all, let me see the email.

21 MR. O'BRIEN: Yes, Your Honor. May I approach?

22 THE COURT: Yes.

23 MR. O'BRIEN: Okay. This is --

24 THE COURT: Show it to counsel.

25 MR. O'BRIEN: Is this okay?

1 MR. SPIVA: It's the one that you gave us? Yes.

2 MR. O'BRIEN: Okay. Thank you.

3 Your Honor, the demarcation is when we had submitted  
4 our exhibit list, it was a different exhibit.

5 THE COURT: That's all right. First of all, you will  
6 need to remark this. Do you have stickers?

7 MR. O'BRIEN: We do, Your Honor. We have a clean  
8 copy.

9 THE COURT: What would be the objection?

10 MR. SPIVA: Well, Your Honor, there are at least two  
11 that I just note, first of all, that we would stipulate that  
12 she was the special assistant to the then CEO, and that's the  
13 only real purpose that I think this email could serve. Our  
14 objections are as follows:

15 One, this email was stolen, and there is case law that  
16 even if -- you know, counsel, obviously we are not suggesting  
17 that they stole the email, but Wikileaks obtained it from a  
18 stolen source, that it is still a confidential email, and it  
19 shouldn't be permitted to be used. There is an ACLU case out  
20 of the District of Columbia that holds that and --

21 THE COURT: Do you have that cite?

22 MR. SPIVA: Yes, Your Honor. Can I get it to you in  
23 just a minute? I think I might need to consult an electronic  
24 device, Your Honor. I apologize.

25 Second basis, Your Honor, there is really no way to

1 authenticate this, I don't think, with any of the people that  
2 are on their witness list. And also it's hearsay. So we would  
3 have those objections as well.

4           Mainly I don't see why they need it. We are willing  
5 to stipulate that that was, in fact, her title, special  
6 assistant to Ms. Dacey.

7           THE COURT: Any reply to those objections?

8           MR. O'BRIEN: Yes, Your Honor. I will start with the  
9 caveat that I have not seen the D.C. case or in West Law. I  
10 searched Wikileaks and I couldn't find a case on this. So I  
11 don't know -- I think this may be a first impression as to  
12 whether something like this could come in based on the  
13 allegation that it's stolen; although, we don't have proof it's  
14 stolen. But we wanted Ms. Herries here.

15           THE COURT: I understand.

16           MR. O'BRIEN: We asked them to bring Ms. Herries here  
17 so we can cross-examine her or take her testimony. We don't  
18 have her.

19           THE COURT: But they were not required to do that.

20           MR. O'BRIEN: They were not required and she's outside  
21 the subpoena power. We wanted to establish, because it's our  
22 burden, that Ms. Herries had the authority. This email, not  
23 only shows that she was the special assistant which they  
24 stipulated to in their motion to quash, but she's organizing --

25           THE COURT: Well, they stipulated to it here today.

1 MR. O'BRIEN: Here today, yes, Your Honor, they  
2 stipulated to it here today. In this email, we would be  
3 offering it, not just for that purpose, but because it appears  
4 that she's organizing a DNC-wide meeting in the Wasserman  
5 conference room.

6 So our argument would be, based on that, that she is  
7 the kind of person, if she's organizing a meeting for the  
8 entire DNC in the Wasserman conference room, then she's someone  
9 with authority to come down and get service on Debbie Wasserman  
10 Schultz and the DNC. That would be the argument we would make.

11 As far as hearsay, I think it would be non-hearsay  
12 because it would be an admission. We cited in our exhibit list  
13 Rule 801(d)(2). Alternatively, it's a hearsay exception under  
14 Rule 803, subsection 6. I think it's a business record. I  
15 think it's self-authenticating. And the only way we could  
16 think to try to get it in would be to have our two witnesses  
17 say they went to Wikileaks which they did, typed in Becca  
18 Herries which they did, and saw this exhibit on Wikileaks. I  
19 mean, I don't know how else to get it in other than to say that  
20 someone went to the internet which is what happened. That  
21 would be our way to try to get it in.

22 THE COURT: I am going to reserve on Plaintiffs' 4 at  
23 this point. I am going to reserve ruling on it.

24 MR. O'BRIEN: Thank you, Your Honor.

25 THE COURT: Let me just ask for a clarification so

1 that the record is clear. Do you have an extra copy of  
2 Plaintiffs' 4?

3 MR. O'BRIEN: May I give you a clean copy, Your Honor?

4 THE COURT: You hold on to the clean copy because this  
5 is not marked other than the exhibit number that is not  
6 pertinent right now. So you hold on to the plain copy.

7 MR. O'BRIEN: Thank you, Your Honor.

8 THE COURT: Just make sure you mark them with the  
9 appropriate exhibit sticker, all the exhibits.

10 I have reviewed the complaint and the first amended  
11 complaint.

12 Counsel, go ahead and be seated.

13 MR. SPIVA: Thank you, Your Honor.

14 THE COURT: I have reviewed the complaint and the  
15 first amended complaint. Is it the plaintiffs' position that  
16 Congresswoman Schultz is being sued individually and not in her  
17 capacity as then the chair of the DNC?

18 MR. O'BRIEN: May I consult with my colleagues? I  
19 think -- I need to make sure that I get this answer right, Your  
20 Honor.

21 THE COURT: Because if you read the complaint and the  
22 first amended complaint and in particular page 20 of the first  
23 amended complaint -- but go ahead, consult with your counsel.

24 MR. O'BRIEN: Thank you, Your Honor.

25 MR. SPIVA: Would it be all right if I consult my

1 electronic device to get you that cite while they are  
2 conferring?

3 THE COURT: Go right ahead.

4 MR. SPIVA: Thank you.

5 MR. O'BRIEN: Your Honor, thank you. I think Your  
6 Honor is referring to paragraph 154 on page 20.

7 THE COURT: Well, paragraph 154 in particular.

8 MR. O'BRIEN: I think we would take the position that  
9 our complaint is suing Ms. Wasserman Schultz in her individual  
10 capacity.

11 THE COURT: Okay.

12 MR. O'BRIEN: She happened to be a chairperson, but  
13 this is in her individual capacity, Your Honor.

14 THE COURT: All right. Because obviously that  
15 capacity would affect the service of process analysis.

16 MR. O'BRIEN: I think Your Honor could reasonably  
17 state that because it's in her individual capacity, maybe we  
18 had to treat her -- go to her house or something like that.  
19 But we would be taking the argument that, because she was DNC  
20 chair at the time, that that was a good place to serve her.  
21 And beyond that, based on what Ms. Herries said, she accepted  
22 service on behalf of --

23 THE COURT: No, I understand. We will get to the  
24 argument at a later point. But for the purposes of the record,  
25 just so the record is clear, Congresswoman Schultz is being

1 sued in her individual capacity?

2 MR. O'BRIEN: Yes, Your Honor, in the first amended  
3 complaint, Your Honor.

4 MR. SPIVA: May I be heard on that briefly, Your  
5 Honor?

6 THE COURT: Yes.

7 MR. SPIVA: Our understanding up until now is that she  
8 was being sued in her corporate capacity.

9 THE COURT: That is why I asked for the clarification.

10 MR. SPIVA: So this is kind of the first time we are  
11 learning this as well, so I just wanted to make that point --

12 THE COURT: Counsel, go ahead.

13 MR. O'BRIEN: -- with the argument.

14 THE COURT: Are we finished with exhibits?

15 MR. O'BRIEN: We are finished with exhibits, Your  
16 Honor. May I discuss the witnesses?

17 THE COURT: Go right ahead.

18 MR. O'BRIEN: Thank you, Your Honor.

19 MR. SPIVA: Your Honor, sorry to interrupt. I did  
20 find the cite that I was looking for. One of the reasons we  
21 didn't have this in our reply brief is we didn't know this was  
22 going to be one of their exhibits until after we had filed it.

23 THE COURT: That's fine.

24 MR. SPIVA: But the case that I was citing was ACLU  
25 versus Department of State, 879 F. Supp. 2d 215, and that's out

1 of the DDC 2012. And that's one of the cases that suggests  
2 that --

3 THE COURT: That is out of the D.C. circuit?

4 MR. SPIVA: Yes. Well, it's the district court in  
5 D.C., yeah.

6 THE COURT: District court case?

7 MR. SPIVA: Correct, Your Honor.

8 THE COURT: Okay.

9 MR. SPIVA: And the case where the ACLU sought to  
10 obtain some documents that had been published on Wikileaks that  
11 the government contended had been stolen or leaked, and the  
12 court said, you know, that you couldn't -- that the ACLU  
13 couldn't obtain those documents or use those documents despite  
14 that they were public.

15 THE COURT: I will take a look at that. Thank you.

16 MR. O'BRIEN: Your Honor, may we on our side be able  
17 to respond to this case?

18 THE COURT: Sure.

19 MR. O'BRIEN: I don't want to give Your Honor an  
20 impression that we are trying to make Your Honor rule  
21 inconsistent with the case, but I want to see this case and --

22 THE COURT: That's fine.

23 MR. O'BRIEN: Thank you.

24 THE COURT: All right. Are you ready to proceed with  
25 the evidentiary phase of the trial?

1 MR. O'BRIEN: Yes, Your Honor. One stipulation on  
2 witnesses and then one manner of disagreement on witnesses.

3 THE COURT: Go right ahead.

4 MR. O'BRIEN: Our first witness we would like to call  
5 is Ricardo Villalba, and he was the videographer. I don't  
6 believe there is any objection to him testifying by the  
7 defendants.

8 THE COURT: Any objection?

9 MR. SPIVA: No blanket objection to his testifying,  
10 Your Honor. I mean, obviously we would have to see what he  
11 says. But, yes, we don't have an objection, a blanket  
12 objection.

13 THE COURT: Let me just ask you this for a convenience  
14 of time standpoint. If there is no objection to the video, do  
15 you think you still need the witness?

16 MR. O'BRIEN: We wanted to be very careful. Because  
17 it's our burden, we wanted as many witnesses as we could  
18 possibly have. We wanted the security guards. We wanted  
19 Ms. Herries. We brought him in the abundance of caution.

20 I do agree with Your Honor that much of what the  
21 witness will say will be apparent on the video. But in case  
22 Your Honor had any questions or in case there's just context we  
23 wanted to give Your Honor for why he was there but, yeah, since  
24 the video is now in evidence, there is very little that would  
25 be helpful. However, in an abundance of caution, he flew down

1 from D.C. for this hearing, so we wanted to make him available  
2 and we intended to call him.

3 THE COURT: If you wish to, go right ahead, or you can  
4 have him -- obviously he will be here throughout the hearing.  
5 If anyone has any questions regarding the video, he could be  
6 called to the witness stand. But proceed in whatever fashion  
7 you would like to.

8 MR. O'BRIEN: Thank you, Your Honor. The second  
9 witness would be the first named plaintiff, Ms. Carol Wilding,  
10 who is here. The defendants object to her testifying. We  
11 would want her to testify in case it was needed to show that  
12 she watched the live stream. The video of service of process  
13 event was on live stream on Facebook, and she watched it in  
14 case -- because it's our burden to give a different perspective  
15 of what was happening and to testify she didn't hear anything  
16 inconsistent with what's on the video. This is in an abundance  
17 of caution. I understand that we don't want to duplicate or  
18 take up Your Honor's time unnecessarily, but we wanted to make  
19 sure we had as many witnesses as possible here.

20 THE COURT: The video obviously speaks for itself,  
21 correct?

22 MR. O'BRIEN: Yes, Your Honor.

23 THE COURT: And what is on the video is on the video.

24 MR. O'BRIEN: Yes, Your Honor.

25 THE COURT: And Ms. Wilding would not testify as to

1 anything different, correct?

2 MR. O'BRIEN: Yes, Your Honor.

3 THE COURT: So do you think that you still need her as  
4 a witness?

5 MR. O'BRIEN: No, Your Honor. Now that there is a  
6 stipulation of the video into evidence, I -- oh, the other  
7 thing would be to bring in that Wikileaks either through the  
8 first witness or the second witness. We were prepared to have  
9 them say, because it's true, they went to Wikileaks, and that's  
10 how we would get the exhibit in.

11 THE COURT: Regarding Plaintiffs' 4 --

12 MR. O'BRIEN: Correct, Your Honor.

13 THE COURT: -- the email?

14 MR. O'BRIEN: Yes, Your Honor.

15 MR. SPIVA: Your Honor, we don't think she's a  
16 competent witness to testify to either of those things. I  
17 mean, she didn't take the video. At least Mr. -- and I don't  
18 want to butcher his name, Mr. Villalba.

19 MR. O'BRIEN: Villalba.

20 MR. SPIVA: Villalba, thank you. You know, he  
21 apparently took the video and I assume was going to testify to  
22 that. But she didn't take the video. They are just saying she  
23 watched it which means that if she's a competent witness to  
24 testify to what's in the video, anyone in America really who  
25 saw the video would be a competent witness. So we would object

1 to that, Your Honor.

2 And as far as the Wikileaks document, again, she  
3 didn't create the document. She didn't receive the document.  
4 She's just saying she pulled it up on Wikileaks. And so we  
5 don't think she's competent to testify to that either.

6 THE COURT: Well, if you want to call the witness with  
7 respect to whatever she did at Wikileaks, feel free to do that.  
8 You can call that witness whenever you wish to. If you want to  
9 go forward with the video first, that is up to you.

10 MR. O'BRIEN: Thank you, Your Honor. We would like to  
11 go forward with the video first. And my colleague Ms. Beck is  
12 going to play the video if Your Honor would allow it.

13 THE COURT: Fine.

14 MR. O'BRIEN: Thank you, Your Honor.

15 THE COURT: This is Plaintiffs' 1. Take your time.  
16 If you need assistance, we have our technical assistant here.

17 (Thereupon, the videotape was played.)

18 MR. O'BRIEN: Your Honor, for the record, that was  
19 Plaintiffs' Exhibit 1.

20 And now Ms. Beck will be playing Plaintiffs' Exhibit 2  
21 if Your Honor would allow it.

22 THE COURT: Which is a continuation of the video?

23 MR. O'BRIEN: Yes, Your Honor. There is a  
24 couple-minute gap in it.

25 THE COURT: All right. But we are still on

1 Plaintiffs' 1, for the record.

2 MR. O'BRIEN: It's a composite 1. I apologize, Your  
3 Honor.

4 THE COURT: That's all right, because Plaintiffs' 2 is  
5 a police report.

6 MR. O'BRIEN: I apologize, Your Honor.

7 THE COURT: That's all right. Don't worry about it.

8 MR. O'BRIEN: Yes, Your Honor.

9 (Thereupon, the videotape was played.)

10 MR. O'BRIEN: Your Honor, that completes Exhibit 1.  
11 And we have offered that into evidence. I would like to offer  
12 into evidence as well Plaintiffs' Exhibits 2 and 3.

13 THE COURT: All right. Now, already in evidence is  
14 Plaintiffs' 1, composite 1, being the thumb drive.  
15 Plaintiffs' 2 and Plaintiffs' 3 are in evidence. The Court has  
16 reserved on Plaintiffs' 4.

17 MR. O'BRIEN: Thank you, Your Honor.

18 I would like to call Mr. Villalba, Ricardo Villaba.

19 THE COURT: Fine.

20 Please step up to the witness stand.

21 THE WITNESS: Good morning, Your Honor -- or good  
22 afternoon.

23 THE COURT: Please remain standing and raise your  
24 right hand.

25

1 RICARDO VILLALBA CABRAL

2 Having been first duly sworn on oath, was examined and  
3 testified as follows:

4 THE COURT: Thank you. Please be seated. You can  
5 adjust that microphone. Please speak directly into it. Please  
6 state your full legal name for the record and spell your last  
7 name for the reporter.

8 THE WITNESS: My first name is Ricardo, R-I-C-A-R-D-O.  
9 Do I have to give my middle name too or --

10 THE COURT: No, just your last name.

11 THE WITNESS: My last name, I have two last names,  
12 Villalba Cabral. The first last name is spelled  
13 V-I-L-L-A-L-B-A, and my second last name is C-A-B-R-A-L.

14 THE COURT: Thank you. You may proceed.

15 MR. O'BRIEN: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. O'BRIEN:

18 Q Good morning, sir.

19 A Good morning.

20 Q Sir, where do you live?

21 A I live in Washington, D.C.

22 Q How long have you lived there?

23 A For about 20-plus years.

24 Q What is your profession?

25 A I am a substance abuse case manager for youth. I'm also

1 filmmaker, you know.

2 Q You saw the video that was played here in court, sir?

3 A Yes, I did.

4 Q Was that you recording on the video, sir?

5 A Yes.

6 Q Was that you recording both the first video that stopped  
7 and the second video?

8 A Yes, it was me.

9 Q Sir, what day of the week, if you recall, and year was  
10 that video taken?

11 A It was Friday, July 1st of 2016, of this year.

12 MR. O'BRIEN: Your Honor, I would like to show the  
13 witness what has been marked for identification purposes only  
14 Plaintiffs' Exhibit 4.

15 May I approach the witness?

16 THE COURT: Fine. Go ahead.

17 MR. O'BRIEN: Thank you.

18 THE COURT: That is the email?

19 MR. O'BRIEN: Yes, Your Honor.

20 BY MR. O'BRIEN:

21 Q Sir, I have handed you what has been marked for  
22 identification purposes only as Plaintiffs' Exhibit 4. Do you  
23 see that document?

24 A Yes, I do.

25 Q Do you recognize the document?

1 A Yes, I do recognize it.

2 Q What is the document?

3 MR. SPIVA: Objection, Your Honor. He hasn't laid any  
4 foundation that he would have a basis to answer that question.

5 THE COURT: He is allowed to try to identify the  
6 document.

7 What is the document that you are looking at, sir?

8 THE WITNESS: It is an email from Becca Herries to the  
9 staff at the DNC headquarters.

10 BY MR. O'BRIEN:

11 Q Sir, how do you know that?

12 A I went into Wikileaks and I searched Becca Herries, and  
13 this is what came up. And I read it, and it seems that it's an  
14 email.

15 MR. SPIVA: I don't want to keep interrupting, Your  
16 Honor. I'll just say objection, lack of foundation, hearsay.

17 THE COURT: It hasn't been offered yet.

18 MR. SPIVA: Okay.

19 BY MR. O'BRIEN:

20 Q The exhibit that is in your hand, are you testifying that  
21 you saw that by doing a search under Becca Herries at the  
22 Wikileaks database?

23 A Yes.

24 MR. O'BRIEN: Your Honor, I would like to offer  
25 Plaintiffs' Exhibit 4 into evidence.

1 MR. SPIVA: Same objections, Your Honor.

2 THE COURT: I am going to reserve on Plaintiffs' 4 at  
3 this point.

4 MR. O'BRIEN: Your Honor, may I consult with my  
5 co-counsel to see if we have further questions from the  
6 witness?

7 THE COURT: Yes, sir. Take your time.

8 MR. O'BRIEN: Thank you.

9 Your Honor, for the purposes of direct, I have no  
10 further questions.

11 THE COURT: Cross-examination?

12 MR. SPIVA: Yes, Your Honor. Thank you.

13 CROSS EXAMINATION

14 BY MR. SPIVA:

15 Q Good morning. It's still good morning, Mr. Villalba --  
16 sorry, Villalba Cabral. Did I get that right?

17 A You're close.

18 Q All right. Thank you, sir. So on the video that you  
19 took, one of the things that you said was that you didn't  
20 expect to find many people at the DNC that day, is that  
21 correct?

22 A That is correct.

23 Q And that was because it was the Friday before the July 4  
24 holiday weekend, correct?

25 A That is correct.

1 Q And you, in fact, noticed, I think you noted on the video,  
2 that there weren't a lot of people around, fair?

3 A That is correct.

4 Q Okay. And, sir, you didn't fill out either of the  
5 affidavits of service in this case, did you?

6 A No, I didn't.

7 Q And you weren't there that day serving as a process  
8 server, were you?

9 A No, I wasn't.

10 Q Okay. You were there and you saw when the woman who  
11 identified herself as Becca came down from upstairs, correct?

12 A That's correct.

13 Q And you didn't ask her her last name, did you?

14 A No, I didn't.

15 Q And you didn't hear Mr. Lucas ask her her last name,  
16 correct?

17 A Correct.

18 Q And she didn't provide her last name to either of you,  
19 correct?

20 A No, she didn't.

21 Q And she didn't provide her title either, did she?

22 A No, she didn't.

23 Q She didn't say that she had authority to accept service of  
24 process, did she?

25 MR. O'BRIEN: Objection, Your Honor, calls for a legal

1 conclusion.

2 MR. SPIVA: I asked what she said.

3 THE COURT: I'll overrule the objection.

4 THE WITNESS: No.

5 BY MR. SPIVA:

6 Q Okay. And she didn't say that she was an officer of the  
7 DNC, did she?

8 A No.

9 Q And Mr. Lucas didn't ask her if she was an officer of the  
10 DNC, did he?

11 A No.

12 Q And she didn't say that she was a managing agent of the  
13 DNC, I take it?

14 A No.

15 Q And, likewise, she didn't say that she was a general agent  
16 of the DNC, correct?

17 A Correct.

18 Q And she didn't say that she was the treasurer of the DNC,  
19 did she?

20 A No.

21 Q Or the cashier of the DNC?

22 A No.

23 Q Or the secretary of the DNC?

24 A No.

25 Q Or the general manager of the DNC?

1 A No.

2 Q And she didn't say she was a director of the DNC?

3 A No.

4 Q And Mr. Lucas didn't ask her whether she was any of those  
5 things, did he?

6 A No.

7 Q Now, she also didn't say that she had authority to accept  
8 service of process on behalf of Ms. Wasserman Schultz, did she?

9 MR. O'BRIEN: Objection, Your Honor. The evidence  
10 speaks for itself. What she said is what she said, and we  
11 would disagree with the characterization, the legal conclusion.

12 MR. SPIVA: I'm just asking what she said.

13 THE COURT: I will overrule the objection.

14 BY MR. SPIVA:

15 Q She didn't say that she had the authority to accept  
16 service on behalf of Ms. Wasserman Schultz, did she?

17 A No, she didn't.

18 Q Okay. At some point while you were there -- you were  
19 there about 14 minutes, is that fair?

20 A A little bit longer. There was a time lapse between that  
21 recording, so yeah, between 14, 16 minutes.

22 Q All told, from the time you went in the building, you kind  
23 of came out for a while and went back in, about 16 minutes?

24 A I would say 15 minutes all together.

25 Q And there was a time kind of in the middle there where the

1 security guard, several of the security guards specifically  
2 asked you to stop videoing, is that right?

3 A That is correct.

4 Q And you ultimately agreed to stop videotaping, correct?

5 A That's correct.

6 Q In fact, you and Mr. Lucas stepped outside for a short  
7 time at that point?

8 A That's correct.

9 Q And you told the individuals who were watching on live  
10 stream that you were going to have to stop videotaping because  
11 you had been asked by the security guard, correct?

12 A That is correct.

13 Q But then you went back into the DNC a short time later,  
14 correct?

15 A Yes.

16 Q And you started videotaping again, did you not?

17 A Yes, I did.

18 Q But you didn't tell the security guards that you had  
19 started videotaping again, did you?

20 A That is correct.

21 Q In fact, on the live stream video, there was an update  
22 that says we are not going to tell them this time that we are  
23 videotaping, we are not going to tell security that we are  
24 videotaping, correct?

25 A I believe so.

1 Q And you did that because you knew that they would ask you  
2 to leave if you made them aware that you were videotaping  
3 again?

4 A That is correct.

5 Q And Mr. Lucas said to you at one point during the  
6 encounter at the DNC that anybody in the building can accept  
7 the service, the documents, correct?

8 A I believe he said something like that, yes.

9 Q Okay. And he said he had volunteered for the assignment?

10 A Yes.

11 Q Okay. And the reason you were there making the video is  
12 because you wanted to be able to tell people -- you wanted to  
13 be able to tell people at the DNC, quote, you have been served,  
14 correct?

15 A Not me in particular. I know that's what Mr. Lucas wanted  
16 to do. I was just commenting to someone. Someone put a  
17 comment on the Facebook Live, and I just comment to that. But  
18 me in particular, I wasn't there to say any of that.

19 Q Okay.

20 MR. SPIVA: No further questions, Your Honor.

21 THE COURT: Redirect?

22 MR. O'BRIEN: Yes, Your Honor. Thank you.

23 REDIRECT EXAMINATION

24 BY MR. O'BRIEN:

25 Q Why did you continue videotaping after the security guards

1 told you to stop?

2 A As a filmmaker, I believe that it was necessary to  
3 document this event, not just for me, but also for the audience  
4 that we have. Prior to tuning out the live streaming, we had  
5 over 300 viewers, and I needed to bring closures to them.

6 At the same time, Mr. Lucas and I had a conversation. The  
7 building, the DNC building, has several cameras. They  
8 videotape us going into the building. They videotape us  
9 approaching the building. So there's a lot of cameras in the  
10 building as well. So I felt that it was necessary for us to  
11 continue videotaping. I didn't see any signs saying that I  
12 couldn't videotape.

13 When I first walked in, none of the officers -- the first  
14 security officer saw me videotaping. They didn't say nothing.  
15 This happened after the other supervisors came out.

16 The reason why I couldn't videotape, I felt it wasn't  
17 reading law or reading rule. I felt they were just making  
18 things up, and that's the reason why they asked me to stop.

19 Q How many security officers did you and Mr. Lucas interface  
20 with when you entered the building?

21 A When we first entered the building, we talked to one  
22 security officer. It looked like he made several attempts to  
23 reach someone. Eventually three other officers came.  
24 Mr. Lucas spoke to a female security officer explaining what we  
25 were there to do. The female security officer said, let me

1 bring my supervisor. An officer with a white shirt that made  
2 us believe -- you know, we believe he was a supervisor also  
3 approach Mr. Lucas.

4 Mr. Lucas once again explained to him what we were there  
5 to do. I would say in total we spoke to three officers about  
6 what we were there to do.

7 Q At any point in time, did any one of those officers say  
8 today is not a good day to serve the DNC, no one here is able  
9 to accept service for the DNC?

10 A No.

11 Q At any point in time, did any of those officers say  
12 today's not a good day to serve Debbie Wasserman Schultz, there  
13 is no one here to accept service for Debbie Wasserman Schultz?

14 A No.

15 Q When Ms. Herries came down, at any point in time did she  
16 say I'm not able to accept service for the DNC?

17 A No.

18 Q At any point in time, did Ms. Herries say I'm not able to  
19 accept service for Debbie Wasserman Schultz?

20 A No.

21 Q At any point in time did Ms. Herries say today's not a day  
22 to serve the DNC --

23 MR. SPIVA: Objection, Your Honor. He's leading the  
24 witness.

25 THE COURT: Refrain from leading.

1 MR. O'BRIEN: Thank you, Your Honor.

2 BY MR. O'BRIEN:

3 Q Were you given any indication by Ms. Herries that she was  
4 not authorized to accept service on behalf of the DNC?

5 A No.

6 Q Same question with respect to Debbie Wasserman Schultz.

7 A No.

8 Q Did you hear Ms. Herries say, Shawn, hi, Becca?

9 A Yes.

10 Q Did you hear Ms. Herries say, I'm just with the DNC  
11 upstairs?

12 A Yes.

13 Q Did you hear Shawn respond, you are with the DNC?

14 A Yes.

15 Q Did you hear Ms. Herries respond, yes?

16 A Yes.

17 Q Did you hear the -- did you hear Shawn say, all right.  
18 Well, this is going to be a service to the DNC?

19 A Yes.

20 Q Did you hear Ms. Herries say to the DNC, okay?

21 A Yes.

22 Q Did you hear Shawn respond, and this is for Debbie  
23 Wasserman Schultz?

24 A Yes.

25 Q Did you hear Ms. Herries respond, perfect?

1 A Yes.

2 Q Did you hear Shawn say, you guys have been served?

3 A Yes.

4 Q Did you hear Ms. Herries respond, okay?

5 A Yes.

6 Q Did you hear Shawn respond, thank you so much. We'll see  
7 you in court?

8 A Yes.

9 Q And before Shawn -- you heard Shawn say, all right, well,  
10 this is going to be service to the DNC, did you see Shawn hand  
11 Ms. Herries the service of process packet?

12 A Yes.

13 Q And before Shawn said and this is for Debbie Wasserman  
14 Schultz, did you see Shawn hand Ms. Herries the service of  
15 process packet?

16 A Yes.

17 Q How far away from you were -- during this interaction?

18 A Maybe one or two feet. I was right next to him, right  
19 behind him.

20 Q At any point in time, were you given the indication that  
21 you needed to come back, that Shawn Lucas needed to come back  
22 to effect service on the DNC or Ms. Wasserman Schultz?

23 A No.

24 Q Did you hear Shawn indicate to the security officers that  
25 he was there to serve the DNC with legal papers?

1 A Yes.

2 Q Did you hear Shawn say to the security officers he was  
3 there to serve Debbie Wasserman Schultz with legal papers?

4 MR. SPIVA: Objection, Your Honor, leading and also  
5 calling for hearsay now.

6 MR. O'BRIEN: I want to know -- it's not hearsay, not  
7 offered for the truth, just as the defendant said, just want to  
8 know what was said.

9 THE COURT: Well, you are asking the witness to repeat  
10 what is on the video, correct?

11 MR. O'BRIEN: You're right, it's duplicative in that  
12 sense. I just want to cover my bases, Your Honor.

13 THE COURT: That's fine. You can ask the question. I  
14 will overrule the question. He is simply testifying about what  
15 is on the video.

16 THE WITNESS: Yes.

17 MR. O'BRIEN: May I ask the question again, Your  
18 Honor?

19 THE COURT: Sure.

20 BY MR. O'BRIEN:

21 Q Did you hear Shawn say to the security guards, I'm here to  
22 serve legal process on Debbie Wasserman Schultz?

23 A Yes.

24 MR. O'BRIEN: Your Honor, may I consult with my  
25 colleagues to see if we have further questions?

1 THE COURT: Take your time.

2 MR. O'BRIEN: Thank you, Your Honor.

3 BY MR. O'BRIEN:

4 Q When you were in the lobby of the DNC headquarters, did it  
5 appear that the offices were closed?

6 A No.

7 Q Did you see people walking in and out to the elevator  
8 bank?

9 A Yes.

10 MR. O'BRIEN: Your Honor, I have no further questions.

11 THE COURT: Recross?

12 MR. O'BRIEN: Thank you.

13 MR. SPIVA: No, Your Honor, no further questions.

14 THE COURT: All right. Thank you, sir. You may step  
15 down. Watch your step, please.

16 THE WITNESS: Thank you, sir. Take the evidence?

17 THE COURT: Just give that to counsel.

18 MR. O'BRIEN: Thank you, sir.

19 Your Honor, may we confer to see whether we would like  
20 to try to call Mrs. Wilding?

21 THE COURT: Sure. Take your time.

22 MR. O'BRIEN: Thank you, Your Honor.

23 Your Honor, may I tell -- consult with Mrs. Wilding,  
24 the first named plaintiff, about our thought process?

25 THE COURT: Go right ahead.

1 MR. O'BRIEN: Thank you, Your Honor.

2 THE COURT: You can step out of the courtroom if you  
3 need to.

4 MR. THOMAS: Your Honor, would it be possible for us  
5 to have a comfort break, five minutes?

6 THE COURT: We will take a short recess. Let's have  
7 everyone back in the courtroom at five after. Court is in  
8 recess for ten minutes.

9 MR. THOMAS: Thank you, Your Honor.

10 (Thereupon, a recess was taken at 11:56 a.m.)

11 THE COURT: Please be seated. All right. The  
12 plaintiff may call its next witness.

13 MR. HERNANDEZ: Your Honor, after discussing the  
14 matter with our colleagues and the plaintiff, we have decided  
15 not to call Ms. Wilding today. We wanted to provide the Court  
16 with the widest net possible, but in light of the testimony and  
17 the evidence we have proffered, we respectfully retract calling  
18 her.

19 THE COURT: All right. That's fine.

20 MR. HERNANDEZ: Thank you, Judge.

21 THE COURT: The plaintiff rests?

22 MR. O'BRIEN: For the evidence, yes, Your Honor.

23 THE COURT: All right. Thank you.

24 Any testimony or evidence on behalf of the defense?

25 MR. SPIVA: I think the answer is no, Your Honor. I

1 just wanted one clarification. The plaintiffs had filed the  
2 two affidavits of service on the record, ECF No. 7 and ECF  
3 No. 6. And I am assuming that I don't need to introduce those  
4 into evidence. I know the Court has already considered them, I  
5 think you've mentioned in your recent order. And that's the  
6 only thing that we would rely upon in our argument that hasn't  
7 been introduced by the plaintiffs here today.

8 THE COURT: I am not considering them for the purposes  
9 of this hearing.

10 MR. SPIVA: Well, these are the affidavits of service  
11 from Mr. Lucas --

12 THE COURT: Oh, I'm sorry.

13 MR. SPIVA: Yeah. -- that the plaintiffs submitted.

14 THE COURT: You said affidavits, and I thought that  
15 you were talking about --

16 MR. SPIVA: I apologize, affidavit of service. The  
17 plaintiffs had submitted earlier affidavits of service, one --  
18 both are signed, I think, by Mr. Lucas. And one is at ECF --

19 THE COURT: Docket entry --

20 MR. SPIVA: No. 7.

21 THE COURT: -- 6 and 7?

22 MR. SPIVA: Yes, Your Honor.

23 THE COURT: Any objection from the plaintiff?

24 MR. O'BRIEN: Your Honor, I believe that the burden  
25 was on the defendants to bring in any testimony or witnesses.

1 We wanted Ms. Herries here. We wanted the security guards here  
2 to sort of double back on the original affidavits. We would  
3 just -- we would object on the basis that it's hearsay. But  
4 it's in the court file, so I don't know how Your Honor could  
5 not take it into account.

6 But with respect to the affidavit of service, we have  
7 an affidavit from Mr. Lucas that's dated -- oh, it's July 7th  
8 that has -- appears to have corrections. We did not file it.  
9 And I don't know if Your Honor would accept this in lieu of  
10 accepting the ones that -- this would sort of be a rebuttal  
11 exhibit to that.

12 MR. SPIVA: I have never seen that, Your Honor. And  
13 these were filed by the plaintiffs themselves, you know,  
14 purporting to show how they accomplished service. I don't  
15 think it's hearsay. It's clearly statement by an agent of the  
16 plaintiff. And they filed it for the purpose of showing -- of  
17 meeting their burden of showing that they had effectuated  
18 service. I can move them formally as exhibits if need be, Your  
19 Honor, but they are on the ECF record.

20 THE COURT: Well, for the purposes of the hearing, you  
21 should move them in as defense exhibits if that's what you wish  
22 to do.

23 MR. SPIVA: Yes, Your Honor.

24 THE COURT: Take a look at the exhibits that plaintiff  
25 is showing you.

1 MR. SPIVA: Okay. So if I might, Your Honor, may I go  
2 ahead and move in the two affidavits of service?

3 THE COURT: Do you want to mark them separately or as  
4 a composite exhibit?

5 MR. SPIVA: I think I should mark them separately,  
6 Your Honor.

7 THE COURT: All right. Defendants' 1 and 2?

8 MR. SPIVA: Yes, Your Honor. So the one that appears  
9 at ECF docket No. 6 we would mark as Defendants' Exhibit 1, and  
10 the affidavit of service that appears at ECF document No. 7 we  
11 would mark as Defendants' Exhibit 2.

12 THE COURT: Any objection from the plaintiff?

13 MR. O'BRIEN: Your Honor, it's part of the court  
14 record. I don't know how I could make an objection that Your  
15 Honor wouldn't consider it other than technically it's hearsay,  
16 and we would ask to be able to submit this rebuttal exhibit if  
17 that's allowed.

18 THE COURT: I will overrule the objection.  
19 Defendants' 1 and 2 are in evidence.

20 (Thereupon, Defendants' 1 and 2 received in evidence.)

21 MR. SPIVA: Your Honor, I believe this is the first  
22 time I have seen this revised affidavit of service, so I would  
23 object if they are intending to, I guess, introduce this in  
24 their rebuttal case, but maybe I should wait until their  
25 rebuttal.

1 Your Honor, we are not going to introduce any further  
2 evidence. At some point I don't know if Your Honor is going to  
3 entertain argument today, but based on evidence that the  
4 plaintiffs have submitted, the previous --

5 THE COURT: I'm not going entertain argument right  
6 now.

7 MR. SPIVA: Okay.

8 THE COURT: Any additional evidence or any testimony  
9 from the defendant?

10 MR. SPIVA: I don't think so, Your Honor. Let me just  
11 confer with my co-counsel just briefly.

12 No, Your Honor. With the exception of those two  
13 exhibits, that's it. Thank you.

14 THE COURT: So the defendants rest?

15 MR. SPIVA: Yes, Your Honor.

16 THE COURT: Any rebuttal testimony or evidence from  
17 the plaintiff?

18 MR. O'BRIEN: Yes, Your Honor. I would like to offer  
19 rebuttal evidence. It's an affidavit of service signed by  
20 Mr. Lucas. The purpose of this is to show that Mr. Lucas tried  
21 to correct who he thought he served. And on the exhibit, it  
22 has a Rebecca Christopher which is who he thought he was  
23 serving, one of the people on the list that he gave the  
24 security guard as seen on the video. I know the defendants --  
25 we didn't know that they were going to produce rebuttal

1 exhibits, so this would be our counter to the other affidavits  
2 that are already in the court file.

3 MR. SPIVA: Your Honor, I may be missing something,  
4 but this looks exactly the same to me as what we have marked as  
5 Defendants' Exhibit 2, which was document No. 7. I just went  
6 through it kind of line by line, and I can't find what the  
7 difference is.

8 THE COURT: Well, I haven't seen them, so...

9 MR. O'BRIEN: The difference is, Your Honor, when it  
10 says I, Brandon Yoshimura, it looks like the form was filled  
11 out with the wrong name and --

12 THE COURT: That is the only change?

13 MR. O'BRIEN: Is that the only change?

14 MS. BECK: Yes, Your Honor.

15 MR. O'BRIEN: Yes, Your Honor.

16 MR. SPIVA: In that case, Your Honor, with the  
17 stipulation that that is the only change here, I would not  
18 object to the admission of this. I'm not withdrawing the  
19 exhibit that I entered.

20 THE COURT: I understand.

21 MR. SPIVA: Because I want to show that there was an  
22 inaccuracy there. But I don't object to this also being --

23 THE COURT: That will be Plaintiffs' Exhibit No. 5?

24 MR. O'BRIEN: Yes, Your Honor.

25 THE COURT: All right. There being no objection,

1 Plaintiffs' 5 is in evidence being an affidavit of service.

2 (Thereupon, Plaintiffs' 5 received in evidence.)

3 MR. O'BRIEN: Your Honor, we have no further evidence.

4 THE COURT: All right. The plaintiff rests?

5 MR. O'BRIEN: Thank you, Your Honor.

6 THE COURT: All right. I will hear argument from  
7 counsel.

8 MR. SPIVA: Since this is our motion, do you want to  
9 hear from us first, Your Honor?

10 THE COURT: Yes.

11 MR. SPIVA: Thank you, Your Honor. First I must say  
12 we first offered to accept a waiver of service form over a  
13 month ago, and so I'm a little bit, you know, kind of taken  
14 aback or confused as to why we are really here.

15 Clearly service was not provided in the proper manner.  
16 I think the videotape only confirms that. You know, this was  
17 done on the weekend before July 4th when they knew that nobody  
18 would be there, and they didn't make any attempt to really to  
19 get a proper person. They didn't even ask the person that they  
20 got what her last name was, what her title was, whether she fit  
21 any of the categories under either the D.C. statute or the  
22 Florida statute or any of the federal rules. So frankly,  
23 usually --

24 THE COURT: When you say the federal rules, you are  
25 talking about Rule 4 --

1 MR. SPIVA: Yes, Your Honor.

2 THE COURT: -- of the federal rules?

3 MR. SPIVA: Yes, Your Honor. And with respect to  
4 either Ms. Wasserman Schultz or the DNC itself, you know,  
5 frankly, when this has happened in the past, you know, when  
6 counsel offers to accept waiver, you know, the waiver form, the  
7 opposing counsel goes ahead and does that. And we certainly  
8 would have been willing to negotiate over the time frame to  
9 respond. I know that would have given us more time.

10 But we can't waive this type of service because it  
11 would just open the floodgates to anybody kind of, you know, as  
12 a matter of political theater, you know, coming into the DNC  
13 offices and, you know, kind of grabbing the first person they  
14 can get ahold of.

15 On their face, if you look at either the revised or  
16 the original affidavits of service by the process server, they  
17 are deficient. He doesn't even state in there that the person  
18 he talked to said that they were authorized to have service  
19 because, as the tape shows, she clearly didn't. He has the  
20 wrong person in the affidavit of service which only confirms  
21 what the tape shows which he didn't even ask what her last name  
22 was. He must have looked it up on the internet.

23 The person he thought he was serving, Rebecca  
24 Christopher, also isn't authorized to accept service.

25 THE COURT: Is or is not?

1 MR. SPIVA: Sorry, Your Honor?

2 THE COURT: Is or is not?

3 MR. SPIVA: Is not, Your Honor. She's a creative  
4 strategist. She's not an agent, a managing agent, all of the  
5 other -- treasurer, the other things that you would need to be.

6 When it's not a holiday weekend and someone comes and  
7 asks for that type of a person, in the past they have come down  
8 and accepted service.

9 There were other options available. They could have  
10 served by registered mail under certain conditions in D.C.  
11 They didn't avail themselves of that. And then, of course, you  
12 know, as I mentioned at the beginning, they could -- and even  
13 know, Your Honor, we would be willing to fill out the waiver of  
14 service form and accept service that way.

15 We have now been put to considerable expense, you  
16 know, trying to uphold this principle that you can't just kind  
17 of serve people by dropping paper on a Friday afternoon on the  
18 first person you come across. And, you know, so that's  
19 unfortunate, Your Honor, but we would still -- you know, we are  
20 not trying to evade service, as has been suggested in the  
21 papers of the plaintiffs. We are still willing to figure out a  
22 waiver of service form. I would be willing to do it today.

23 And, you know, the only thing we would ask is for an  
24 extension, Your Honor, in terms of our time to respond. We  
25 have had to spend so much time on this that we haven't yet been

1 able to get to responding on the merits.

2 THE COURT: But the parties have stipulated that  
3 Ms. Herries was then the special assistant to the CEO of the  
4 DNC on July 1, 2016, correct?

5 MR. SPIVA: That is correct. But she was not, and  
6 there's certainly no evidence in the record that she had any  
7 authority to accept service on behalf of the DNC or on behalf  
8 of Ms. Dacey or anyone else and she didn't. And certainly the  
9 plaintiffs have not come forward with any evidence that she had  
10 such authority. I mean --

11 THE COURT: How is it that she ended up in the lobby  
12 then?

13 MR. SPIVA: They refused to leave until they spoke to  
14 someone. It's not clear from anything that we have heard today  
15 what she was told before she came down.

16 But what is clear, though, is that the process server  
17 thought that he could give the papers to anybody in the  
18 building, that basically all she said was, hi, my name is  
19 Becca. And, you know, Your Honor has seen the video, so I  
20 won't repeat it but, you know, there was no question, are you  
21 authorized to accept service of legal papers for the DNC for  
22 Ms. Wasserman Schultz, and she clearly was not.

23 THE COURT: Why did she accept them then?

24 MR. SPIVA: I don't even know that she knew -- I'm  
25 sure that she didn't know she was accepting service of the

1 process. I think she thought she was taking --

2 THE COURT: Why did she take the papers?

3 MR. SPIVA: Because they handed them to her. Somebody  
4 said to her that, according to her declaration, that there were  
5 people in the lobby who wouldn't go away until they got to  
6 speak to somebody from the DNC. She tried to get ahold of her  
7 superiors and couldn't.

8 THE COURT: Well, according to the video, Ms. Herries  
9 says, quote, Shawn, hi, Becca.

10 Ms. Herries says, I'm just with the DNC upstairs.

11 The process server, Mr. Lucas says you're with the  
12 DNC.

13 Ms. Herries, yes.

14 The process server, all right. Well, this is going to  
15 be a service to the DNC.

16 Ms. Herries, to the DNC? Okay.

17 The process server, and this is for Debbie Wasserman  
18 Schultz.

19 Ms. Herries, perfect.

20 The process server, you guys have been served.

21 What did Ms. Herries think was going on?

22 MR. SPIVA: I don't know, Your Honor, but I think from  
23 the face of that, from the video that Your Honor just read, he  
24 didn't say service of process. He didn't say service of a  
25 lawsuit. At the end he said, see you in court, but I think it

1 was entirely ambiguous what he was saying. Service to the DNC  
2 could mean anything. This is a low level employee who simply  
3 went downstairs --

4 THE COURT: Well, that's difficult to say, that she's  
5 a low level employee at the time if she's the special assistant  
6 to the CEO, the chief executive officer of the DNC.

7 MR. SPIVA: Well, the special assistant, Your Honor,  
8 is an administrative -- you know, it's a pretty entry level  
9 position. I mean, it's not -- this is not a policy making --

10 THE COURT: I'm not saying that, but I am saying that  
11 it is the right-hand man, if you will, to the CEO.

12 MR. SPIVA: It really isn't, Your Honor. And there is  
13 no evidence in this record that other than the fact that she,  
14 you know, did what any secretary could do, was she sent around  
15 an email, of course, that isn't in the record -- even if Your  
16 Honor were to admit that into the record --

17 THE COURT: I'm not saying that that makes her one of  
18 the individuals that is set out in the rules --

19 MR. SPIVA: Right.

20 THE COURT: -- to accept service of process.

21 MR. SPIVA: Right. Yeah. And, yes, that's correct,  
22 Your Honor. She clearly is not one of the people set out under  
23 the rules who is authorized to accept --

24 THE COURT: But she is not a low level employee at the  
25 DNC.

1 MR. SPIVA: She's pretty entry level, Your Honor. Had  
2 they introduced the pictures they were going to introduce, you  
3 would see she's about a couple years out of college and this is  
4 a pretty entry level position. There is no evidence on this  
5 one way or the other, but she really isn't a high level  
6 employee by any manner of speaking, Your Honor.

7 THE COURT: So the title is somewhat misleading?

8 MR. SPIVA: Your Honor, in Washington, D.C. there are  
9 thousands of special assistants. And, you know, as Your Honor  
10 is probably aware, yeah, it's not -- it certainly doesn't  
11 denote -- you know, no disrespect to Ms. Herries but --

12 THE COURT: No, I understand.

13 MR. SPIVA: -- but it's like an internship or a  
14 clerkship. It's a great thing to do, you know, as a young  
15 person out of school, but it is not a high level position.

16 Your Honor, unless you have other questions for me, I  
17 am content to rest on our papers and what I said before. You  
18 know, I think it's very clear from the video, from the  
19 affidavits of service that they did not serve these papers on  
20 somebody who was authorized under the relevant statutes and  
21 rules to accept service of process.

22 You know, we are certainly still willing and ready to  
23 do a proper waiver of service, but we don't think the Court  
24 should allow them to kind of do a service light, if you will,  
25 here where you kind of just go to the office and drop the

1 papers on the first person you can get to come down, you know,  
2 the elevator without verifying that that person has any  
3 authority to do so.

4 THE COURT: All right. Thank you.

5 MR. SPIVA: Thank you, Your Honor.

6 THE COURT: I think you dropped a piece of paper.

7 MR. O'BRIEN: Thank you, Your Honor.

8 MR. SPIVA: Is that yours or mine?

9 MR. O'BRIEN: Thank you.

10 THE COURT: Yes, sir.

11 MR. O'BRIEN: May it please the Court. With respect  
12 to my colleague, I just I disagree about what is on the video.  
13 I think Your Honor has discretion to find that there was  
14 authority by Ms. Herries.

15 The statements about Ms. Herries' low level or didn't  
16 know what was going on or all that, yes, we don't have  
17 Ms. Herries here, but we wanted Ms. Herries here. We wanted  
18 the security guards here.

19 I don't think that this Court can accept evidence  
20 about Ms. Herries when they haven't brought Ms. Herries here.  
21 From the evidence that we have, we have Ms. Herries saying, as  
22 Your Honor repeated, perfect, as to Debbie Wasserman Schultz,  
23 and to the DNC, okay, as to the DNC on service of process.

24 I think that when you say service to anybody in this  
25 country, they know it's legal process of service of papers.

1 Even in the declaration of Ms. Herries, she talks about having  
2 called the COO to find out about legal papers. So even under  
3 her own declaration, she knew that this was legal process.

4 I will say her calculation is troubling because it  
5 doesn't mention the conversation that happened with Mr. Lucas.  
6 It omits significant details that Your Honor has in evidence.

7 So I would say to the extent we are relying on  
8 Mrs. Herries to counteract the evidence we put in, I don't  
9 think she's credible. I just don't think she's credible. To  
10 submit a declaration to this Court to not talk about the  
11 conversation, I think that renders Ms. Herries not credible.

12 We wanted her here. We could have asked Ms. Herries  
13 all these questions. We could have asked the security guards.  
14 We did the best we could. We flew down the videographer. We  
15 have the video. We have Mrs. Wilding, the first named  
16 plaintiff who watched the video. We've done all we can in  
17 terms of evidence.

18 THE COURT: You have referred to Ms. Herries'  
19 declaration. That is not being considered for the purposes of  
20 this evidentiary hearing.

21 MR. O'BRIEN: Correct, Your Honor. And I -- Your  
22 Honor made a ruling on the motion in limine. I just -- my  
23 colleague made an argument with respect to what is in the  
24 declaration. So we ask Your Honor not to consider anything.  
25 But in terms of atmospherics, the reason why it's our burden

1 now to put forward evidence is because of the declaration they  
2 submitted which we believe --

3 THE COURT: To the motion.

4 MR. O'BRIEN: Excuse me, to the motion to quash.

5 THE COURT: Right.

6 MR. O'BRIEN: In support thereof, they filed a  
7 declaration of Mrs. Herries that triggered the plaintiffs'  
8 burden to put forward evidence as to proper service. But that  
9 declaration that triggered the burden now having seen the video  
10 is not credible and has, in my opinion, material omissions as  
11 to what transpired.

12 If you read the last paragraph, I just think she  
13 should have said what was said. They handed me papers and  
14 left. I mean, that's the impression they gave to this Court  
15 through this declaration that now require us to put on  
16 witnesses and evidence. They won't allow us to bring  
17 Mrs. Herries. I think we shouldn't even have to be here. I  
18 don't think that declaration should have even triggered the  
19 burden.

20 I have a problem the calculation. They handed me the  
21 papers and left. That's not what happened. They didn't hand  
22 her the papers and left. Find the first person. I'm watching  
23 a different video.

24 They asked the security guard -- they went into the  
25 building. They asked the security guards. There was a lot of

1 conversation. They were trying to find the right person.  
2 Somebody came down. Security guards came down. We have no  
3 evidence as to why she came down.

4 Based on the video, it looks like they came down --  
5 she came down to accept service of process. I think that's a  
6 reasonable conclusion in Your Honor's discretion based on the  
7 evidence.

8 This isn't the first person. Mr. Lucas took his time  
9 to say service of process on the DNC, service of process on  
10 Debbie Wasserman Schultz, and they brought someone down. It's  
11 not like they grabbed someone who was in the elevator bank.

12 And by the way, this was open for business. They  
13 didn't say, hey, sorry, 4th of July weekend, come back after  
14 the holiday and someone will be here. They didn't give him  
15 that impression, that you can't serve anybody that day. There  
16 was no indication that service was improper, not even by  
17 Mrs. Herries.

18 I think they did everything you should do when you are  
19 serving a big corporation and the former chairwoman of the  
20 corporation in the corporate offices.

21 I just respectfully disagree with what I am seeing  
22 here in the evidence before, Your Honor. So I think Your Honor  
23 has the discretion to find that there was actual authority by  
24 Mrs. Herries. They have not put forward any evidence to the  
25 contrary. Your Honor can make that conclusion.

1           Whether or not Your Honor rules on the Wikileaks email  
2 which we would submit is further evidence contrary to this low  
3 level -- this non-evidentiary lawyer submission, she's sending  
4 an email to the DNC, everybody at the DNC, come to the  
5 Wasserman conference room. We've got an all hands on deck  
6 meeting. Come to the conference room. That doesn't seem like  
7 a low level employee. That sounds like someone who they would  
8 entrust, both the DNC and the chairwoman, to come except  
9 service.

10           But if Your Honor doesn't consider the Wikileaks, we  
11 would like to submit a memorandum of law on the case we were  
12 provided today. I think Your Honor would be making a ruling of  
13 first impression on Wikileaks. I don't know that any court has  
14 allowed a Wikileaks email in. At least I put it in WestLaw. I  
15 didn't find any. So I want to be cautious of that. So we  
16 think there's a sufficient record for actual authority.

17           Process server comes, tells the security guards I'm  
18 here to serve process. A lot of security guards talk about it.  
19 Someone a white shirt, the head security guard, brings down  
20 someone who says, oh, I'm with the DNC upstairs. Okay.  
21 Service of the DNC. Okay. Let me say it correct. Service to  
22 the DNC. Okay. And this is for Debbie Wasserman Schultz.  
23 Perfect. You guys have been served. Okay.

24           What else is a process server supposed to do?

25           I believe that Your Honor also has discretion to find

1 there was apparent authority. If Your Honor in the alternative  
2 does not believe that there is actual authority from the  
3 record, we have submitted a case, the Kulik case, that we  
4 believe allows Your Honor to make that determination.

5           The case law talks about apparent authority in terms  
6 of service of process. And the burden would shift to us to  
7 show that someone from the DNC or Debbie Wasserman Schultz gave  
8 Mrs. Herries the authority. We don't have Mrs. Herries. We  
9 don't have the security guards. But I do believe on this  
10 record Your Honor would be within his discretion to determine  
11 that when you go into a lobby and you ask security guards about  
12 service of process and they bring someone down, I think that's  
13 enough for us to meet our burden that the DNC and Debbie  
14 Wasserman Schultz gave Mrs. Herries the authority to come down  
15 and get it, service of process.

16           I say that because there is no evidence to the  
17 contrary from defendants, and there is no indication whatsoever  
18 that something was wrong with service, not from Mrs. Herries,  
19 not from the security guards, from no one. So I think the only  
20 evidence, in quotes, that Your Honor would have that service  
21 was improper would be lawyer argument. I don't think there's  
22 any evidence that service was improper. I think it's just  
23 lawyer argument that should not be considered as evidence.

24           THE COURT: And what about service as to Congresswoman  
25 Schultz in her individual capacity?

1 MR. O'BRIEN: I agree, Your Honor, that is a little  
2 more gray area. I would say that the DNC, I don't think  
3 there's a gray area. The argument we would say, the reason why  
4 we think it's a good faith argument respect to Debbie Wasserman  
5 Schultz is because she's the chair of the DNC. If you can't  
6 serve the chair of the DNC at the DNC headquarters, where else  
7 could you serve her? Yeah, we could go to her house or find  
8 her on the campaign trail, but she's the chair of the DNC  
9 headquarters. I'm sure she doesn't want us going to her house  
10 or finding her on the campaign trail. She's the chair. She's  
11 not some lower level employee. She's the figurehead of the  
12 entire organization with the building that Your Honor saw,  
13 Democratic National headquarters. If you can't serve the chair  
14 of that building, the stuff that goes on in that building, at  
15 the building with the person who comes down and says perfect, I  
16 don't know how else to do it.

17 THE COURT: Am I not bound by Rule 4 of the Federal  
18 Rules of Civil Procedure?

19 MR. O'BRIEN: Your Honor, that is the applicable rule.  
20 It would be --

21 THE COURT: -- or the appropriate Florida statute?

22 MR. O'BRIEN: You are bound. And I think Your Honor  
23 has the discretion to find that there is authority, actual  
24 authority, based on the interface between the process server  
25 and the security guards, the security guards and Mrs. Herries,

1 and Mrs. Herries and the process server, in terms of apparent  
2 authority Your Honor has that discretion.

3 And in Florida law, and if I may submit these cases  
4 post hearing, I found a case called Evans versus Thornton under  
5 Florida law. The federal rules talk about the law applicable  
6 in the district or where the service is. In Florida there is a  
7 case called Evans versus Thornton which is 898 So.2d 151 where  
8 I would read that case as Florida law allowing apparent  
9 authority to serve an individual.

10 THE COURT: Let me ask the plaintiff, in a case of  
11 this nature, this magnitude, if there is -- and you have  
12 conceded in a way that there is the issue regarding  
13 Mrs. Schultz in her individual capacity, that there is a gray  
14 area. All right. If there is a gray area regarding service in  
15 general and I were to rule in favor of the plaintiff, why would  
16 you want that lingering out there for the purposes of appeal at  
17 a later point in time?

18 MR. O'BRIEN: That's a great question, Your Honor.  
19 And the way I would respond to it is the way I responded to my  
20 colleagues here when they said just do a waiver of service  
21 because --

22 THE COURT: I'm not saying to give a waiver of  
23 service. I'm not suggesting that at all.

24 MR. O'BRIEN: It's a principled thing. We did it  
25 right. We did it the right way. We did not mess up. We don't

1 need to do a waiver of service. That can be used against us as  
2 inadequate counsel somehow. We did everything we are supposed  
3 to do. When I say gray area, I mean an individual is different  
4 than a corporation.

5 THE COURT: You can turn around and re-serve and clear  
6 everything up.

7 MR. O'BRIEN: You're right, but we served the right  
8 way. And just because she's the Democratic National Committee  
9 chairperson at the time and just because it's a democratic  
10 party, it doesn't mean that they just get to say we messed up  
11 when we didn't mess anything up.

12 THE COURT: I understand. That is a ruling that the  
13 Court will eventually make.

14 MR. O'BRIEN: The reason I say it's a gray area is  
15 because individuals are treated differently than corporations,  
16 so the step I think Your Honor has the discretion to make is  
17 because she's chair, that was proper to serve in that building.  
18 We didn't want to get cute with the pleadings. We believe  
19 she's sued in her individual capacity.

20 THE COURT: That's fine. That is not an issue. But  
21 it needed to be cleared up for the purposes of the record and  
22 for the analysis to take place.

23 MR. O'BRIEN: Thank you, Your Honor. I would like to  
24 rest on the papers unless Your Honor has further questions.

25 THE COURT: Thank you.

1 MR. O'BRIEN: Thank you. I would like to be able to  
2 submit, if Your Honor would allow, argument regarding Wikileaks  
3 at a later point. We could do it in 24 hours if Your Honor  
4 would like.

5 THE COURT: Well, it will have to be quick because  
6 this has been now pending, and for the benefit of the parties,  
7 I want to give you a ruling on it. So if you can submit it by  
8 close of business tomorrow.

9 MR. O'BRIEN: That's perfect, Your Honor.

10 THE COURT: Is that fine? Okay.

11 MR. O'BRIEN: Thank you, Your Honor.

12 THE COURT: Reply?

13 MR. SPIVA: Just briefly, Your Honor. Even leaving  
14 Ms. Herries' declaration aside which Your Honor has ruled  
15 shifted the burden to the other side, there is certainly no  
16 evidence and, in fact, I think any evidence that is in the  
17 record really is to the contrary, that Ms. Herries fits any of  
18 the categories under Rule 4 under the Florida statute, under  
19 the D.C. statute for people who are authorized to accept  
20 service.

21 THE COURT: For A corporation.

22 MR. SPIVA: For a corporation or for Ms. Wasserman,  
23 Congresswoman Wasserman Schultz.

24 THE COURT: Individually.

25 MR. SPIVA: Individually or in her corporate capacity.

1 We've heard from --

2 THE COURT: She hasn't been sued in her corporate  
3 capacity.

4 MR. SPIVA: That was our previous understanding until  
5 today, Your Honor, was that she was being sued in her corporate  
6 capacity. But she hasn't been properly served in either  
7 capacity. And Ms. Herries certainly didn't have authority to  
8 accept service on her behalf in either capacity.

9 You know, we have heard that what else is the process  
10 server to do. I think one thing to keep in mind here is just  
11 based on the affidavits of service themselves and based on the  
12 video which I would submit is perfectly consistent with  
13 Ms. Herries' declaration in every important respect, the  
14 process server, with all due respect, didn't even know who he  
15 had left the papers with.

16 And his affidavit of service doesn't state that. It  
17 actually states that he left it with somebody else who also  
18 there's certainly no evidence before the Court that  
19 Ms. Christopher who he says in his affidavit of service was the  
20 person that he served, there is no evidence that she had  
21 authority to accept service of process, and she didn't.

22 And so I think based on that, Your Honor, that they  
23 really didn't come close. I think if you take a look at the  
24 Sears & Roebuck case in this circuit, as Your Honor knows,  
25 service, Rule 4, is strictly construed. They have cited a lot

1 of cases from outside the circuit where some circuits have  
2 looser rules on this. I think most of the cases even under  
3 looser rules are pretty distinguishable from this case, and we  
4 have talked about that in our briefs.

5 But in this circuit, it is strictly construed. I  
6 don't think they even came close. So it's not a matter of, oh,  
7 it's kind of a technicality. I mean, they got the first name  
8 of the first person who walked down. And her declaration, I  
9 did misspeak, I think, when I first got up which I know is the  
10 thing that put the burden on them, does talk about what she  
11 knew when she came down. She was told somebody was downstairs  
12 and they couldn't leave until they could hand some legal papers  
13 to someone. It doesn't say that she knew she was being served  
14 with a lawsuit and she was accepting service. And certainly  
15 the videotape is consistent with that.

16 I think it's important to strictly construe Rule 4  
17 because otherwise anybody can and will sue, not just the DNC,  
18 but potentially the RNC and potentially any corporation in  
19 America by simply going to their front offices. Most places  
20 have security these days. I have certainly been a plaintiff in  
21 many cases, and I know that sometimes you can't get the person  
22 you need to serve the first time your service processer goes  
23 there. Sometimes they have to go there several times. So  
24 sometimes it's not easy.

25 But here they had alternatives. They had registered

1 mail. And even after we brought to their attention that they  
2 had gotten the wrong person, we offered to accept this waiver  
3 of service of process.

4 And I must say, I don't understand this point about we  
5 don't want to concede that we did anything wrong. No one is  
6 asking them to concede anything. Certainly to just say, look,  
7 we want to remove all doubt and move on, it seems like the  
8 quicker thing to do would be to send us the waiver of process  
9 form.

10 But one thing we can't concede is that, you know,  
11 anybody can just come into the DNC, into the lobby, and  
12 essentially hand some legal papers to the first person who  
13 comes down and that that's sufficient service, Your Honor.

14 So we would ask that the motion be granted. Thank you  
15 very much.

16 THE COURT: Do you want time to respond to any written  
17 submission that the plaintiff might send?

18 MR. SPIVA: Yes, Your Honor.

19 THE COURT: All right. Then I will give you until the  
20 close of business on Thursday.

21 MR. SPIVA: Okay. Thank you, Your Honor. I mean,  
22 just if I might, I mean, whichever way Your Honor rules on that  
23 email, I don't think it changes the fundamental facts that --

24 THE COURT: I understand that.

25 MR. SPIVA: So --

1 THE COURT: I understand that.

2 MR. SPIVA: All right. Thank you, Your Honor.

3 THE COURT: All right. Counsel, thank you very much.  
4 I will wait until I receive the written submissions with the  
5 last one being due on the close of business on Thursday. I am  
6 going to ask for the lawyers to hold on to your own exhibits.  
7 I really don't think there is any need for the Court to review  
8 Plaintiffs' 2 which is the police report. That deals only with  
9 Mr. Lucas, and that is not an issue, really. Plaintiffs' 3 is  
10 an email again dealing with Mr. Lucas, and that's not an issue.  
11 Plaintiffs' 4 I have reserved on. And we have Defendants' 1  
12 and 2 which I have copies of those. Those are docket entry  
13 No. 6 and 7 in the court file. And Plaintiffs' 5 is basically  
14 the corrected affidavit of service which simply changes a name.  
15 So I will ask the lawyers to hold on to your own exhibits then.

16 MR. O'BRIEN: With respect to Exhibit 1 by the  
17 plaintiffs, Your Honor, should we --

18 THE COURT: You hold on to that thumb drive, yes. You  
19 keep that as well.

20 All right. Anything else from the plaintiff?

21 MR. O'BRIEN: No. Thank you, Your Honor.

22 THE COURT: From the defense?

23 MR. SPIVA: No, Your Honor. Thank you.

24 THE COURT: All right. Counsel, thank you very much.  
25 The Court appreciates your argument and your efforts.

1           There being no further business, this session of the  
2 court is the adjourned. Everyone have a great week. Have a  
3 safe travel back to your home destinations.

4           MR. SPIVA: Thank you, Your Honor.

5           MR. O'BRIEN: Thank you, Your Honor.

6           THE COURT: Court is in adjournment.

7           (Thereupon, the hearing concluded at 12:46 p.m.)

8                           - - -

9                           C E R T I F I C A T E

10  
11           I hereby certify that the foregoing is an  
12 accurate transcription of the proceedings in the  
13 above-entitled matter.

14  
15  
16 10/13/17

s/ Tammy Nestor  
Tammy Nestor, RMR, CRR  
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<p>MR. BECK: [1] 4/10  MR. HERNANDEZ: [3] 4/7  37/12 37/19  MR. O'BRIEN: [120] 4/5  4/19 4/25 5/4 5/7 5/14 5/17  5/20 5/25 6/15 6/22 6/25 7/2  7/12 7/20 8/2 8/5 8/11 9/1  9/4 9/12 9/14 9/16 9/18 9/20  9/22 9/24 10/1 10/6 11/7  11/15 11/19 11/25 12/23  13/2 13/6 13/17 13/23 14/4  14/7 14/11 14/15 15/1 15/12  15/14 15/17 16/15 16/18  16/22 16/25 17/3 17/15 18/7  18/21 18/23 19/1 19/4 19/11  19/13 19/18 20/9 20/13  20/17 20/22 21/1 21/5 21/7  21/9 21/16 22/14 23/11  23/16 23/18 24/23 25/3 25/7  26/24 28/8 30/21 32/25 35/5  35/10 35/16 35/23 36/1 36/9  36/11 36/17 36/21 36/25  37/21 38/23 40/12 41/17  42/8 42/12 42/14 42/23 43/2  43/4 50/6 50/8 50/10 51/20  52/3 52/5 55/25 56/18 56/21  57/17 57/23 58/6 58/13  58/22 58/25 59/8 59/10  63/15 63/20 64/4  MR. SPIVA: [83] 4/12 5/22  6/2 6/7 6/11 7/7 7/17 9/25  10/9 10/21 13/12 13/24 14/3  15/3 15/6 15/9 15/18 15/23  16/3 16/6 16/8 17/8 19/14  19/19 24/2 24/14 24/17  24/25 25/11 27/1 28/11  30/19 32/22 35/3 36/12  37/24 38/9 38/12 38/15  38/19 38/21 39/11 39/22  39/25 40/4 40/7 40/20 41/6  41/9 41/14 42/2 42/15 42/20  43/7 43/10 43/25 44/2 44/25  45/2 46/4 46/12 46/23 47/2  47/21 48/6 48/11 48/18  48/20 48/25 49/7 49/12 50/4  50/7 59/12 59/21 59/24 60/3  62/17 62/20 62/24 63/1  63/22 64/3  MR. THOMAS: [3] 4/16 37/3  37/8  MS. BECK: [2] 4/9 42/13  THE COURT: [184] 4/2 4/11  4/15 4/18 4/20 5/3 5/6 5/13  5/15 5/18 5/21 6/6 6/9 6/12  6/20 6/24 7/1 7/5 7/9 7/11  7/16 7/18 8/1 8/4 8/10 8/24  9/2 9/10 9/13 9/15 9/17 9/19  9/21 9/23 10/4 10/8 10/20  11/6 11/14 11/18 11/24  12/21 12/24 13/3 13/7 13/13  13/20 14/2 14/6 14/10 14/13  14/22 15/5 15/8 15/11 15/13  15/16 15/22 16/2 16/5 16/7  16/14 16/17 16/21 16/23  17/2 17/7 17/12 18/2 18/19  18/22 18/24 19/2 19/10  19/12 20/5 20/12 20/14  20/21 20/24 21/3 21/6 21/12</p>	<p>21/18 21/22 22/3 22/9 22/13  23/15 23/17 24/4 24/16 25/1  25/6 25/10 27/2 28/12 30/20  32/24 35/8 35/12 35/18  35/25 36/10 36/13 36/16  36/20 36/24 37/1 37/5 37/10  37/18 37/20 37/22 38/7  38/11 38/13 38/18 38/20  38/22 39/19 39/23 40/2 40/6  40/11 40/17 41/4 41/7 41/13  41/15 42/7 42/11 42/19  42/22 42/24 43/3 43/5 43/9  43/23 44/1 44/24 45/1 46/1  46/10 46/22 47/1 47/7 48/3  48/9 48/16 48/19 48/23 49/6  49/11 50/3 50/5 50/9 51/17  52/2 52/4 55/23 56/16 56/20  57/9 57/21 58/4 58/11 58/19  58/24 59/4 59/9 59/11 59/20  59/23 60/1 62/15 62/18  62/23 62/25 63/2 63/17  63/21 63/23 64/5  THE WITNESS: [7] 21/20  22/7 22/10 24/7 27/3 35/15  36/15</p> <hr/> <p>1</p> <p>10/13/17 [1] 64/16  10:59 [1] 4/2  11:56 [1] 37/10  12485 [1] 1/20  12:46 [1] 64/7  137th [1] 1/20  13th [1] 2/4  14 [2] 28/19 28/21  15 [1] 28/24  151 [1] 57/7  154 [2] 14/6 14/7  16 [2] 28/21 28/23  16-61511-CV-ZLOCH [1] 1/2  17 [1] 64/16  1st [1] 23/11</p> <hr/> <p>2</p> <p>20 [2] 13/22 14/6  20-plus [1] 22/23  20005 [1] 2/5  2012 [1] 16/1  2016 [3] 1/5 23/11 46/4  205 [1] 1/20  215 [1] 15/25  21st [1] 1/14  23 [1] 1/5  24 [1] 59/3  299 [2] 2/11 64/17  2d [1] 15/25</p> <hr/> <p>3</p> <p>300 [1] 31/5  33131 [1] 1/17  33186 [1] 1/21  33301 [2] 2/11 64/18  33308 [1] 1/14  33606 [1] 2/7</p> <hr/> <p>4</p> <p>4th [2] 43/17 53/13</p> <hr/> <p>6</p> <p>600 [1] 2/4</p>	<p>601 [1] 2/7  6541 [1] 1/14  7  700 [1] 2/4  7th [1] 39/7</p> <hr/> <p>8</p> <p>801 [1] 12/13  803 [1] 12/14  879 [1] 15/25  898 [1] 57/7</p> <hr/> <p>A</p> <p>a.m [2] 4/2 37/10  aback [1] 43/14  able [9] 16/16 30/12 30/13  32/8 32/16 32/18 40/16 46/1  59/1  about [28] 6/3 6/4 6/8 9/9  21/7 22/23 28/19 28/23 32/5  35/14 36/24 38/15 43/25  49/3 50/12 50/15 50/20 51/1  51/2 51/10 54/18 55/5 55/11  55/24 57/5 61/4 61/10 62/4  above [1] 64/13  above-entitled [1] 64/13  abundance [3] 17/19 17/25  18/16  abuse [1] 22/25  accept [27] 8/19 26/23 28/7  28/15 30/6 32/9 32/13 32/16  32/19 33/4 39/9 43/12 44/6  44/24 45/14 46/7 46/21  46/23 48/20 48/23 49/21  50/19 53/5 59/19 60/8 60/21  62/2  accepted [3] 6/9 14/21 45/8  accepting [3] 39/10 46/25  61/14  accomplished [1] 39/14  according [2] 47/4 47/8  account [1] 39/5  accurate [1] 64/12  ACLU [4] 10/19 15/24 16/9  16/12  across [1] 45/18  actual [4] 53/23 54/16 55/2  56/23  actually [1] 60/17  additional [1] 41/8  adjourned [1] 64/2  adjournment [1] 64/6  adjust [1] 22/5  administrative [1] 48/8  admissibility [1] 5/11  admission [2] 12/12 42/18  admit [1] 48/16  advance [1] 9/9  affect [1] 14/15  affidavit [11] 38/16 39/6 39/7  40/10 40/22 41/19 43/1  44/20 60/16 60/19 63/14  affidavits [11] 26/5 38/2  38/10 38/14 38/17 39/2 40/2  42/1 44/16 49/19 60/11  after [7] 15/22 30/25 31/15  37/7 37/13 53/13 62/1  afternoon [2] 21/22 45/17  again [7] 20/2 29/16 29/19</p>	<p>30/3 32/4 35/17 63/10  against [1] 58/1  agent [5] 27/12 27/15 39/15  45/4 45/4  ago [1] 43/13  agree [2] 17/20 56/1  agreed [1] 29/4  ahead [12] 5/7 13/12 13/23  14/3 15/12 15/17 17/3 18/3  23/16 36/25 40/2 44/7  ahold [2] 44/14 47/6  al [2] 1/3 1/7  all [46] 6/21 7/6 9/3 9/11  9/20 10/5 10/5 10/11 13/9  13/25 14/14 16/24 20/25  21/4 21/7 21/13 25/18 28/22  28/24 33/17 34/9 36/14  37/11 37/19 37/23 40/7  42/25 43/4 43/6 45/4 46/18  47/14 50/4 50/16 51/13  51/16 54/5 57/14 57/23  60/14 62/7 62/19 63/2 63/3  63/20 63/24  allegation [1] 11/13  allow [5] 20/12 20/21 49/24  52/16 59/2  allowed [4] 9/12 24/5 40/17  54/14  allowing [1] 57/8  allows [1] 55/4  along [1] 5/3  already [3] 21/13 38/4 42/2  also [11] 7/24 11/2 22/25  28/7 31/3 32/2 35/4 42/22  44/24 54/25 60/17  alternative [1] 55/1  Alternatively [1] 12/13  alternatives [1] 61/25  although [1] 11/13  am [11] 12/22 12/23 22/25  25/2 38/3 38/8 48/10 49/17  53/21 56/17 63/5  ambiguous [1] 48/1  amended [5] 13/10 13/15  13/22 13/23 15/2  America [2] 19/24 61/19  analysis [2] 14/15 58/22  answer [3] 13/19 24/4 37/25  Antonino [2] 1/15 1/16  Antonio [1] 4/8  any [47] 5/22 7/7 7/17 11/1  11/7 17/6 17/8 17/22 18/5  24/3 28/4 30/18 31/11 32/7  32/7 32/11 32/11 32/15  32/18 32/21 33/3 34/20  37/24 38/23 38/25 40/12  41/1 41/8 41/8 41/16 43/18  43/21 43/22 46/6 46/9 48/14  49/6 50/2 53/24 54/13 54/15  55/22 59/16 59/17 61/18  62/16 63/7  anybody [7] 30/6 44/11 46/17  50/24 53/15 61/17 62/11  anyone [3] 18/5 19/24 46/8  anything [10] 9/8 18/15 19/1  46/14 48/2 51/24 58/11 62/5  62/6 63/20  apologize [5] 5/1 10/24 21/2  21/6 38/16</p>
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		<p>U</p> <p>ultimately [1] 29/4</p>	

<p><b>W</b>  waiver... [8] 45/13 45/22  49/23 57/20 57/22 58/1 62/2  62/8  walked [2] 31/13 61/8  walking [1] 36/7  want [29] 5/12 7/4 8/12 8/12  8/14 8/20 9/11 16/19 16/21  18/11 18/17 19/18 20/6 20/8  24/15 35/6 35/7 35/12 40/3  42/21 43/8 54/15 56/9 57/16  58/18 59/7 62/5 62/7 62/16  wanted [20] 11/14 11/21  15/11 17/16 17/17 17/18  17/18 17/23 18/1 18/18  30/12 30/12 30/15 37/15  38/1 39/1 39/1 50/17 50/17  51/12  wants [1] 9/10  was [103] 7/3 8/7 8/13 8/23  9/7 10/4 10/12 10/15 11/5  11/23 14/19 14/20 15/8  15/20 15/21 15/24 15/24  17/5 17/23 18/11 18/13  18/15 19/21 20/17 20/18  21/9 22/2 23/2 23/4 23/6  23/8 23/9 23/11 25/19 25/23  25/23 27/6 27/9 27/12 27/15  27/18 28/2 28/4 28/20 28/25  29/21 30/16 31/2 31/10 32/2  33/3 34/18 34/25 35/2 35/8  37/10 38/25 41/22 42/5  42/10 42/21 43/15 43/16  43/20 43/20 44/22 44/23  46/3 46/5 46/15 46/18 46/20  46/22 46/25 47/1 47/21 48/1  48/1 48/14 49/20 50/13  50/16 51/3 52/13 52/25  53/11 53/12 53/16 53/16  53/23 55/1 55/18 55/21  55/22 58/17 60/4 60/5 60/5  60/19 61/11 61/11 61/13  61/14  Washington [2] 2/5 22/21  Washington, [1] 49/8  Washington, D.C [1] 49/8  wasn't [3] 26/9 30/18 31/16  Wasserman [28] 4/15 12/4  12/8 12/9 14/9 28/8 28/16  32/12 32/13 32/19 33/6  33/23 34/13 34/22 35/3  35/22 44/4 46/22 47/17  50/22 53/10 54/5 54/22 55/7  55/14 56/4 59/22 59/23  Watch [1] 36/15  watched [4] 18/12 18/13  19/23 51/16  watching [2] 29/9 52/22  way [13] 1/14 10/25 12/15  12/21 45/14 49/5 53/12  57/12 57/19 57/19 57/25  58/8 62/22  we [174] 4/21 5/2 5/9 5/13  5/15 6/4 6/5 6/23 7/4 7/21  8/6 8/15 8/19 9/9 10/3 10/7  10/7 10/11 10/16 11/2 11/4  11/13 11/14 11/16 11/17  11/17 11/21 12/2 12/10  12/12 12/15 14/8 14/17</p>	<p>14/19 14/23 15/10 15/14  15/15 15/20 15/21 15/22  16/16 16/20 17/4 17/10  17/11 17/16 17/17 17/17  17/18 17/18 17/19 17/22  18/1 18/2 18/10 18/17 18/18  18/19 19/8 19/10 19/15  19/25 20/4 20/10 20/16  20/25 21/11 25/5 28/10  29/22 29/22 29/23 29/23  31/4 31/4 31/21 31/21 31/24  32/2 32/4 32/5 32/6 35/25  36/19 36/19 37/6 37/14  37/15 37/17 37/17 38/6 39/1  39/1 39/2 39/3 39/6 39/8  40/9 40/10 40/16 41/1 41/25  42/4 43/3 43/12 43/14 44/7  44/10 45/13 45/15 45/19  45/19 45/21 45/23 45/24  45/25 46/14 49/22 49/23  50/16 50/17 50/17 50/21  50/21 51/7 51/8 51/12 51/12  51/13 51/14 51/14 51/14  51/14 51/15 51/16 51/24  52/2 52/17 53/2 54/2 54/10  54/11 54/15 55/3 55/3 55/8  55/8 56/3 56/4 56/7 57/24  57/25 57/25 57/25 58/2 58/2  58/7 58/10 58/11 58/18  58/18 59/3 60/9 61/3 62/1  62/2 62/4 62/5 62/7 62/10  62/14 63/11 63/17  We'll [1] 34/6  We've [3] 51/16 54/5 60/1  week [2] 23/9 64/2  weekend [4] 25/24 43/17  45/6 53/13  well [22] 6/18 10/10 11/3  11/25 14/7 15/11 16/4 20/6  21/12 31/10 33/18 34/9 35/9  38/10 39/20 42/8 47/8 47/14  48/4 48/7 59/5 63/19  went [10] 12/17 12/20 19/9  24/12 28/22 28/23 29/13  42/5 48/3 52/24  were [34] 5/2 6/3 11/19  11/20 16/14 19/8 26/8 26/10  28/18 28/18 29/9 29/10 30/2  30/11 31/17 31/25 32/4 32/6  33/3 34/17 34/20 36/4 36/5  38/15 39/13 41/25 44/18  45/9 47/4 48/16 49/2 53/1  54/11 57/15  weren't [2] 26/2 26/7  West [1] 11/9  WestLaw [1] 54/14  what [52] 6/21 7/21 7/21  10/9 12/20 14/21 17/10  17/20 18/15 18/23 22/24  23/9 23/13 23/21 24/2 24/7  24/13 27/2 28/10 28/10  28/12 30/15 31/24 32/4 32/6  35/8 35/10 35/14 39/21 42/4  42/6 43/20 43/20 44/21  44/21 46/15 46/16 47/21  48/1 48/14 49/17 50/12  50/16 51/23 52/11 52/13  52/21 53/21 54/24 55/24  60/9 61/10</p>	<p>what's [2] 18/16 19/24  whatever [2] 18/6 20/7  whatssoever [1] 59/17  when [22] 10/3 26/10 31/13  31/20 31/21 32/15 36/4 42/9  43/17 43/24 44/5 44/5 45/6  50/20 50/24 53/18 55/11  57/20 58/3 58/11 61/9 61/11  whenever [1] 20/8  where [8] 16/9 22/20 28/25  49/25 56/6 57/6 57/7 61/1  whether [5] 11/12 28/4 36/19  43/20 54/1  which [22] 4/22 4/23 8/19  11/23 12/17 12/18 12/20  19/23 20/22 41/22 42/5  44/20 44/21 52/2 54/2 57/7  59/14 60/12 61/9 63/8 63/12  63/14  whichever [1] 62/22  while [3] 14/1 28/18 28/23  white [2] 32/1 54/19  who [23] 7/25 8/18 18/10  19/24 26/10 29/9 41/21  41/22 47/5 48/2 48/23 49/20  51/16 53/11 54/7 54/20  56/15 59/19 60/14 60/17  60/19 61/8 62/12  why [13] 11/4 15/9 17/23  30/25 31/16 31/18 43/14  46/23 47/2 51/25 53/3 56/3  57/15  wide [2] 8/16 12/4  widest [1] 37/16  Wikileaks [18] 8/8 10/17  11/10 12/17 12/18 16/10  19/7 19/9 20/2 20/4 20/7  24/12 24/22 54/1 54/10  54/13 54/14 59/2  WILDING [7] 1/3 18/9 18/25  36/20 36/23 37/15 51/15  will [26] 6/12 6/25 10/5 11/8  14/23 16/15 17/21 17/21  18/4 20/20 28/13 35/14 37/6  40/18 42/23 43/6 48/11  49/24 51/4 53/14 58/13 59/5  61/17 62/19 63/4 63/15  WILLIAM [1] 1/10  willing [6] 11/4 44/8 45/13  45/21 45/22 49/22  wish [3] 18/3 20/8 39/21  withdrawing [1] 42/18  within [1] 55/10  without [1] 50/2  witness [23] 3/2 5/15 11/2  17/4 17/15 17/21 18/6 18/9  19/4 19/8 19/8 19/16 19/23  19/25 20/6 20/8 21/20 23/13  23/15 25/6 32/24 35/9 37/12  witnesses [8] 12/16 15/16  17/2 17/2 17/17 18/19 38/25  52/16  woman [2] 7/23 26/10  won't [2] 46/20 52/16  worry [1] 21/7  would [99] 4/4 5/13 6/17 7/4  7/13 8/7 8/11 8/17 8/18 8/19  8/19 8/22 9/6 9/12 9/14 10/9  10/11 11/2 12/2 12/6 12/10</p>	<p>12/10 12/11 12/12 12/16  12/21 13/25 14/8 14/15  14/19 17/4 17/10 17/24 18/7  18/9 18/11 18/25 19/7 19/10  19/25 19/25 20/10 20/12  20/21 21/11 21/18 23/12  24/4 24/24 28/11 28/24 30/1  32/5 36/19 37/4 38/6 39/2  39/3 39/9 39/10 40/9 40/11  40/16 40/22 41/18 42/1  42/17 43/18 44/8 44/9 44/11  45/5 45/13 45/19 45/22  45/23 49/3 51/7 54/2 54/7  54/11 54/12 55/6 55/10  55/20 55/21 56/2 56/3 56/20  57/8 57/15 57/19 58/23 59/1  59/2 59/4 60/12 62/8 62/14  wouldn't [2] 40/15 47/5  written [2] 62/16 63/4  wrong [5] 42/11 44/20 55/18  62/2 62/5</p> <hr/> <p><b>Y</b>  yeah [7] 16/5 17/23 28/21  38/13 48/21 49/10 56/7  year [2] 23/9 23/11  years [2] 22/23 49/3  yes [70] 5/1 5/21 9/13 9/21  9/22 10/1 10/22 11/8 12/1  15/2 15/6 16/4 17/1 17/11  18/22 18/24 19/2 19/14  20/23 21/8 23/3 23/5 23/8  23/19 23/24 24/1 24/23 25/7  25/12 29/15 29/17 30/8  30/10 30/22 33/9 33/12  33/14 33/15 33/16 33/19  33/21 33/24 34/1 34/3 34/5  34/8 34/12 34/16 35/1 35/16  35/23 36/9 37/22 38/22  39/23 40/8 41/15 41/18  42/14 42/15 42/24 43/10  44/1 44/3 47/13 48/21 50/10  50/16 62/18 63/18  yet [2] 24/17 45/25  Yoshimura [1] 42/10  you [267] 4/4 4/20 5/8 6/1  6/1 6/3 6/10 6/16 7/1 8/11  9/5 9/11 9/12 10/1 10/2 10/5  10/6 10/16 10/21 10/22  12/24 13/1 13/3 13/4 13/6  13/7 13/8 13/13 13/21 13/24  14/1 14/4 14/5 15/18 16/12  16/12 16/15 16/23 16/24  17/13 17/15 17/15 18/3 18/3  18/7 18/8 19/3 19/3 19/20  19/20 20/6 20/8 20/8 20/8  20/9 20/10 20/14 20/16  21/17 22/4 22/4 22/14 22/14  22/15 22/20 22/22 23/1 23/2  23/4 23/6 23/9 23/17 23/21  23/22 23/25 24/7 24/11  24/20 24/21 25/8 25/12  25/18 25/18 25/19 25/19  26/1 26/1 26/4 26/5 26/7  26/8 26/10 26/10 26/13  26/13 26/15 26/18 28/18  28/18 28/22 28/22 29/2 29/4  29/6 29/9 29/10 29/11 29/13  29/16 29/16 29/18 29/18  29/19 30/1 30/1 30/1 30/2</p>
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<p>Y</p> <p>you... [150] 30/2 30/5 30/11  30/12 30/12 30/13 30/22  30/25 31/1 31/19 31/20 32/2  33/1 33/3 33/8 33/10 33/13  33/13 33/15 33/17 33/17  33/20 33/22 33/25 34/2 34/2  34/4 34/6 34/6 34/7 34/9  34/10 34/14 34/17 34/20  34/21 34/24 35/2 35/9 35/13  35/21 36/2 36/4 36/7 36/12  36/14 36/14 36/16 36/18  36/22 37/1 37/2 37/2 37/9  37/20 37/23 38/14 38/15  39/13 39/20 39/21 39/25  40/3 41/13 43/5 43/8 43/11  43/13 43/16 43/24 43/24  44/4 44/5 44/6 44/11 44/12  44/13 44/15 45/5 45/11  45/15 45/16 45/18 45/18  45/19 45/23 46/19 46/20  46/20 47/20 47/25 48/8  48/11 48/14 49/2 49/9 49/11  49/14 49/16 49/17 49/22  49/24 49/25 50/1 50/1 50/4  50/5 50/6 50/7 50/9 50/24  51/18 52/12 53/15 53/18  53/18 54/23 55/11 55/11  56/5 56/7 56/13 56/22 57/11  57/16 58/5 58/23 58/25 59/1  59/7 59/7 59/11 60/9 60/23  61/21 61/22 62/10 62/14  62/16 62/19 62/21 63/2 63/3  63/18 63/18 63/21 63/23  63/24 64/4 64/5  you're [4] 25/17 35/11 47/11  58/7  you've [1] 38/5  young [1] 49/14  your [230] 4/5 4/6 4/13 4/20  5/1 5/6 5/8 5/9 5/21 5/23  6/12 6/16 6/17 6/23 7/1 7/8  7/13 7/18 7/22 8/6 9/2 9/4  9/5 9/9 9/10 9/13 9/15 9/21  10/3 10/7 10/10 10/22 10/24  10/25 11/8 12/1 12/24 13/3  13/7 13/13 13/19 13/23  13/24 14/5 14/5 14/13 14/16  15/2 15/3 15/4 15/15 15/18  15/19 16/7 16/16 16/19  16/20 17/1 17/10 17/20  17/22 17/23 18/8 18/18  18/22 18/24 19/2 19/5 19/12  19/14 19/15 20/1 20/10  20/12 20/14 20/15 20/18  20/21 20/23 21/2 21/6 21/8  21/10 21/17 21/21 21/23  22/6 22/6 22/10 22/15 22/24  23/12 23/19 24/3 24/15  24/20 24/24 25/1 25/4 25/7  25/9 25/12 26/25 28/9 30/20  30/22 32/23 33/1 35/4 35/12  35/17 35/24 36/1 36/2 36/10  36/13 36/15 36/19 36/21  36/22 36/23 37/1 37/4 37/9  37/13 37/22 37/25 38/5  38/22 38/24 39/4 39/9 39/12  39/18 39/23 40/1 40/6 40/8  40/13 40/14 40/21 41/1 41/2</p>	<p>41/10 41/12 41/15 41/18  42/3 42/9 42/14 42/15 42/16  42/24 43/3 43/5 43/9 43/11  44/1 44/3 45/1 45/3 45/13  45/19 45/24 46/19 47/22  47/23 48/7 48/12 48/15  48/22 49/1 49/6 49/8 49/9  49/16 50/5 50/7 50/13 50/22  51/6 51/21 51/21 51/24 53/6  53/22 53/22 53/25 54/1  54/10 54/12 54/25 55/1 55/4  55/10 55/20 56/1 56/12  56/19 56/22 57/2 57/18  58/16 58/23 58/24 59/2 59/3  59/9 59/11 59/13 59/14 60/5  60/22 60/24 61/22 62/13  62/18 62/21 62/22 63/2 63/6  63/15 63/17 63/21 63/23  63/25 63/25 64/3 64/4 64/5  yours [1] 50/8  youth [1] 22/25  YouTube [2] 5/24 6/4</p> <hr/> <p>Z</p> <p>ZLOCH [2] 1/2 1/10</p>		
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**TAB/DOCKET NO.**  
**70**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

FORT LAUDERDALE DIVISION

CASE NO. 16-cv-61511-WJZ

CAROL WILDING, *et al.*, individually,  
and on behalf of all those similarly  
situated,

Plaintiffs,

vs.

DNC SERVICES CORPORATION, d/b/a  
DEMOCRATIC NATIONAL  
COMMITTEE, and DEBORAH  
“DEBBIE” WASSERMAN SCHULTZ,

Defendants.

**NOTICE OF FILING OF JANUARY 10, 2018 ORDER FROM THE U.S. 11TH CIRCUIT  
COURT OF APPEALS AND OF PLAINTIFFS’ SECOND AMENDED COMPLAINT**

As directed by the U.S. 11th Circuit Court of Appeals, Plaintiffs respectfully file notice of the January 10, 2018 Order from the U.S. 11th Circuit Court of Appeals and of Plaintiffs' Second Amended Complaint, attached hereto respectively as **Exhibits A and B**.

DATED: January 17, 2018

RESPECTFULLY SUBMITTED,

/s/ Cullin O'Brien

By: Cullin O'Brien

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Counsel for Plaintiffs and the Proposed Classes

**CERTIFICATE OF SERVICE**

Undersigned counsel certifies that he filed the foregoing with the ECF system and served same on counsel for Defendants this January 17, 2018.

/s/ Cullin O'Brien  
CULLIN O'BRIEN  
Florida Bar No. 0597341  
cullin@cullinobrienlaw.com

**TAB/DOCKET NO.**  
**70-1**

# Exhibit A

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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Nos. 17-14194-HH

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CAROL WILDING,  
STANLEY RIFKEN,  
SHARON CRAWFORD,  
WILLIAM SCOTT FRANZ,  
DAVID PULASKI,  
MARY JASMINE WELCH,  
JOSE ALBERTO GONZALEZ,  
JANE ELLEN PLATTNER,  
KIM MARIE HOULE,  
TIMOTHY BINGEN  
SUSAN REED,  
ANGELA MONSON,  
IMEE R. COLEMAN,  
ELESHA SNYDER,  
MATTHEW SHAW,  
ZACHARY JAMES HANEY,  
ESTRELLA GONZALEZ,  
CAHTERINE G CYKO,  
LAURA GENNA,  
MARIANNE BLAIR,  
AMARA L. JOHNSTON  
VALERIE ELYSE RESCH,  
BRETT TEEGARDIN,  
DANIEL O'MEARA,  
PEGGY LEW, et al.,

Plaintiffs-Appellants,

versus

DNC SERVICES CORPORATION,  
DEBORAH WASSERMAN SCHULTZ,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Florida

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Before: WILSON, ROSENBAUM, and NEWSOM, Circuit Judges.

BY THE COURT:

Plaintiffs-appellants' motion to amend the complaint is GRANTED. The second amended complaint is sufficient to establish minimal diversity under the Class Action Fairness Act. *See* 28 U.S.C. § 1332(d)(2); *Wright Transp., Inc. v. Pilot Corp.*, 841 F.3d 1266, 1270 (11th Cir. 2016); *Mallory & Evans Contractors & Eng'rs, LLC v. Tuskegee Univ.*, 663 F.3d 1304, 1305 (11th Cir. 2011). Accordingly, we deem the pleadings as so amended and this appeal may proceed. *See* 28 U.S.C. § 1653.

The plaintiffs-appellants are directed to file notice of this order in the district court, along with a copy of the second amended complaint and this order granting the motion to amend.

**TAB/DOCKET NO.  
70-2**

# Exhibit B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

FORT LAUDERDALE DIVISION

CASE NO. 16-cv-61511-WJZ

CAROL WILDING; STANLEY RIFKEN;  
SHARON CRAWFORD; WILLIAM SCOTT  
FRANZ; DAVID PULASKI; MARY  
JASMINE WELCH; JOSE ALBERTO  
GONZALEZ; JANE ELLEN PLATTNER;  
KIM MARIE HOULE; TIMOTHY BINGEN;  
SUSAN REED; ANGELA MONSON;  
AIMEE R. COLEMAN; ELESHA SNYDER;  
MATTHEW SHAW; ZACHARY JAMES  
HANEY; ESTRELLA GONZALEZ;  
CATHERINE G. CYKO; LAURA GENNA;  
MARIANNE BLAIR; TAMARA L.  
JOHNSTON; VALERIE ELYSE RASCH;  
BRETT TEEGARDIN; DANIEL O'MEARA;  
PEGGY LEW; DANIEL J. REYNOLDS;  
BRENDA LEE SMITH; MARLOWE ST.  
CLOUD PRIMACK; PATRICIA D.  
CASSIDY; BRITTANY R. MUSICK;  
HARRIS BIERHOFF; FELICIA MICHELLE  
TAYLOR; SUSAN L. SINGER; KYLE G.  
BRAUND; LAUREN HALE; WILLIAM  
CRANDALL; KIRSTEN HURST; DUFFY  
ROBERT WEISS; CONNIE ANDERSON;  
GREGORY WITKOWSKI; ELIZABETH  
FIGUEROA; BRANDY KINCAID;  
KIMBERLY ALBERTS; RACHEL  
RODERICK; LAURA MICHELLE  
VAUGHN; LISA GALE; TAMMY DEITCH-  
COULTER; KAYITE ASHCRAFT; ALECIA  
R. DAVIS; DOMINIC RONZANI; LUKE  
GRIM; ROSALIE CONSIGLIO; EDWIN  
LUGO; HEATHER DADE; MICHAEL S.  
REED; RHIANNON CRANDALL; RYAN  
GHAN; LISA SETTLE; YALONDA DYE  
COOPER; DANIEL S. COOPER;  
MATTHEW JOSEPH BRADY; ANDREW  
ROUSSEAU; SUSAN CATTERALL; JULIE

SECOND AMENDED COMPLAINT –

CLASS ACTION

DEMAND FOR JURY TRIAL

HAMPTON; CHRIS BUBB; ERIK FURREBOE; ZEKE SHAW; BENJAMIN ILARRAZA; LUCILLE GROOMS; CHRISTINE MAIURANO; LEWIS L. HUMISTON, IV; JOHN LYNCH; JAMES SIMON; LESTER JOHN BATES, III; JEFFREY GOLDBERG; RICK WASHIK; RICHARD BOOKER; KARLIE COLE; ERICH SPARKS; PRABU GOPALAKRISHNAN; CARLOS VILLAMAR; CAROLYN JACOBSON; DAN ELLIS DUDLEY; LISA ANNE MENEELY; D.J. BUSCHINI; RAYMOND D. MAXWELL; DAVID L. MEULI; KENNETH E. PUCKETT; DAVID N. PYLES; CYNTHIA T. CHAN; STEFANIE BIRDSONG; AMBER RAE KNOWLTON; TIMO A. JOHANN; JEFF ROGERS; HEATHER JORDAN; RANA KANGAS-KENT; SUSAN FRISBIE; BAKH INAMOV; THEDA LARSON-WRIGHT; KIRSTEN HOFFMAN; ANTHONY GRUDIN; BRUCE BUSTO; SUZANNE M. CORK; EMMA L. YOUNG; SEAN LYNCH; SHERRY DAVIS; NANCY BERNERS-LEE; PHYLLIS CRIDDLE; MELISSA LIANG; JOSEPH GLEASON; GRETA MICKEY; DIANE EMILY DREYFUS; KATHLEEN L. DODGE; CATHERINE WILLOTT; TRISTAN BURGNER; ERIK MICHAEL FERRAGUT; VINCENT CAUCHI; JOSEPH CALLAN; MARK BEDARD; BARBARA BOWEN; STEVE PHILIPP; SUSAN PHILLIPS; RICHARD J. BOYLAN; TERI MONACO; TUKOI JARRETT; ANNMARIE WILSON; ANDREW ORRINO; CRAIG CURRIER; JARATH HEMPHILL; GEORGE THOMAS; REBECCA WHITE-HAYES; ALAINA TALBOY; SARAH LOPEZ; ELIZA FEERO; REBECCA HOHM; GAYLE A. HARROD; ERIKA SITZER; STEPHEN HOUSEKNECHT; DIANE ROBINSON; JEN BETTERLEY; AMALIE DUVALL; JOHN CROWE; CARL MILLER; SUSAN ROPPEL; DIANA FLORES; JULIANNA SEYMOUR; MELISSA MARCOTTE;

DANIELLE INGRASSIA; ALETTE PRICHETT; and TORSHA CHILDS, individually, and on behalf of all those similarly situated,

Plaintiffs,

vs.

DNC SERVICES CORPORATION, d/b/a DEMOCRATIC NATIONAL COMMITTEE; and DEBORAH "DEBBIE" WASSERMAN SCHULTZ,

Defendants.

PLAINTIFFS CAROL WILDING; STANLEY RIFKEN; SHARON CRAWFORD; WILLIAM SCOTT FRANZ; DAVID PULASKI; MARY JASMINE WELCH; JOSE ALBERTO GONZALEZ; JANE ELLEN PLATTNER; KIM MARIE HOULE; TIMOTHY BINGEN; SUSAN REED; ANGELA MONSON; AIMEE R. COLEMAN; ELESHA SNYDER; MATTHEW SHAW; ZACHARY JAMES HANEY; ESTRELLA GONZALEZ; CATHERINE G. CYKO; LAURA GENNA; MARIANNE BLAIR; TAMARA L. JOHNSTON; VALERIE ELYSE RASCH; BRETT TEEGARDIN; DANIEL O'MEARA; PEGGY LEW; DANIEL J. REYNOLDS; BRENDA LEE SMITH; MARLOWE ST. CLOUD PRIMACK; PATRICIA D. CASSIDY; BRITTANY R. MUSICK; HARRIS BIERHOFF; FELICIA MICHELLE TAYLOR; SUSAN L. SINGER; KYLE G. BRAUND; LAUREN HALE; WILLIAM CRANDALL; KIRSTEN HURST; DUFFY ROBERT WEISS; CONNIE ANDERSON; GREGORY WITKOWSKI; ELIZABETH FIGUEROA; BRANDY KINCAID; KIMBERLY ALBERTS; RACHEL RODERICK; LAURA MICHELLE VAUGHN; LISA GALE; TAMMY DEITCH-COULTER; KAYITE ASHCRAFT; ALECIA R. DAVIS; DOMINIC RONZANI; LUKE GRIM; ROSALIE CONSIGLIO; EDWIN LUGO; HEATHER DADE; MICHAEL S. REED;

RHIANNON CRANDALL; RYAN GHAN; LISA SETTLE; YALONDA DYE COOPER;  
DANIEL S. COOPER; MATTHEW JOSEPH BRADY; ANDREW ROUSSEAU; SUSAN  
CATTERALL; JULIE HAMPTON; CHRIS BUBB; ERIK FURREBOE; ZEKE SHAW;  
BENJAMIN ILARRAZA; LUCILLE GROOMS; CHRISTINE MAIURANO; LEWIS L.  
HUMISTON, IV; JOHN LYNCH; JAMES SIMON; LESTER JOHN BATES, III; JEFFREY  
GOLDBERG; RICK WASHIK; RICHARD BOOKER; KARLIE COLE; ERICH SPARKS;  
PRABU GOPALAKRISHNAN; CARLOS VILLAMAR; CAROLYN JACOBSON; DAN  
ELLIS DUDLEY; LISA ANNE MENEELY; D.J. BUSCHINI; RAYMOND D. MAXWELL;  
DAVID L. MEULI; KENNETH E. PUCKETT; DAVID N. PYLES; CYNTHIA T. CHAN;  
STEFANIE BIRDSONG; AMBER RAE KNOWLTON; TIMO A. JOHANN; JEFF ROGERS;  
HEATHER JORDAN; RANA KANGAS-KENT; SUSAN FRISBIE; BAKH INAMOV;  
THEDA LARSON-WRIGHT; KIRSTEN HOFFMAN; ANTHONY GRUDIN; BRUCE BUSTO;  
SUZANNE M. CORK; EMMA L. YOUNG; SEAN LYNCH; SHERRY DAVIS; NANCY  
BERNERS-LEE; PHYLLIS CRIDDLE; MELISSA LIANG; JOSEPH GLEASON; GRETA  
MICKEY; DIANE EMILY DREYFUS; KATHLEEN L. DODGE; CATHERINE WILLOTT;  
TRISTAN BURGNER; ERIK MICHAEL FERRAGUT; VINCENT CAUCHI; JOSEPH  
CALLAN; MARK BEDARD; BARBARA BOWEN; STEVE PHILIPP; SUSAN PHILLIPS;  
RICHARD J. BOYLAN; TERI MONACO; TUKOI JARRETT; ANNMARIE WILSON;  
ANDREW ORRINO; CRAIG CURRIER; JARATH HEMPHILL; GEORGE THOMAS;  
REBECCA WHITE-HAYES; ALAINA TALBOY; SARAH LOPEZ; ELIZA FEERO;  
REBECCA HOHM; GAYLE A. HARROD; ERIKA SITZER; STEPHEN HOUSEKNECHT;  
DIANE ROBINSON; JEN BETTERLEY; AMALIE DUVALL; JOHN CROWE; CARL  
MILLER; SUSAN ROPPEL; DIANA FLORES; JULIANNA SEYMOUR; MELISSA

MARCOTTE; DANIELLE INGRASSIA; ALETTE PRICHETT; and TORSHA CHILDS (collectively, “Plaintiffs”), individually and on behalf of all those similarly situated, by and through undersigned counsel, hereby sue Defendants, DNC SERVICES CORPORATION d/b/a DEMOCRATIC NATIONAL COMMITTEE and DEBORAH “DEBBIE” WASSERMAN SCHULTZ (collectively, “Defendants”), and allege the following:

### **JURISDICTION AND VENUE**

1. This Court has original jurisdiction over the claims asserted herein individually and on behalf of the class pursuant to 28 U.S.C. §1332(d), as amended in February 2005 by the Class Action Fairness Act. Alternatively, this Court has original jurisdiction under 28 U.S.C. §1332(a). Subject matter jurisdiction is proper because: (1) the amount in controversy in this class action exceeds five million dollars, exclusive of interest and costs; and (2) a substantial number of the members of the proposed classes are citizens of a state different from that of Defendants. Personal jurisdiction is proper as both Defendants have purposefully availed themselves of the privilege of conducting business activities within this District, and Defendant, Deborah “Debbie” Wasserman Schultz resides in and is a Congresswoman representing portions of this District. Venue is proper in this judicial district under 28 U.S.C. §1391(b)(1) because both Defendants are deemed to reside in this District and under 28 U.S.C. §1391(b)(2) because both Defendants conduct business in this District and a substantial part of the acts or omissions giving rise to the claims set forth herein occurred in this District.

### **THE PARTIES AND CERTAIN RELEVANT NON-PARTIES**

#### **Plaintiffs**

2. Plaintiff Carol Wilding (“Wilding”) is a citizen of Florida. She contributed a total of \$445.50 to Bernie Sanders’ presidential campaign via ActBlue.

3. Plaintiff Stanley Rifken (“Rifken”) is a citizen of New York. He contributed a total of \$552.00 to Bernie Sanders’ presidential campaign via ActBlue.
4. Plaintiff Sharon Crawford (“Crawford”) is a citizen of North Carolina. She contributed a total of \$600.00 to Bernie Sanders’ presidential campaign via ActBlue.
5. Plaintiff William Scott Franz (“Franz”) is a citizen of California. He contributed a total of \$2,447.00 to Bernie Sanders’ presidential campaign via ActBlue.
6. Plaintiff David Pulaski (“Pulaski”) is a citizen of Texas. He contributed a total of \$254.10 to Bernie Sanders’ presidential campaign via ActBlue.
7. Plaintiff Mary Jasmine Welch (“Welch”) is a citizen of Oregon. She contributed a total of \$2,447.00 to Bernie Sanders’ presidential campaign via ActBlue.
8. Plaintiff Jose Alberto Gonzalez (“J. Gonzalez”) is a citizen of Texas. He contributed a total of \$25.00 to Bernie Sanders’ presidential campaign via ActBlue.
9. Plaintiff Jane Ellen Plattner (“Plattner”) is a citizen of Colorado. She contributed a total of \$1,700.00 to Bernie Sanders’ presidential campaign via ActBlue.
10. Plaintiff Kim Marie Houle (“Houle”) is a citizen of Connecticut. She contributed a total of \$445.00 to Bernie Sanders’ presidential campaign via ActBlue.
11. Plaintiff Timothy Bingen (“Bingen”) is a citizen of North Dakota. He contributed a total of \$379.00 to Bernie Sanders’ presidential campaign via ActBlue.
12. Plaintiff Susan Reed (“S. Reed”) is a citizen of Maryland. She contributed a total of \$1,289.00 to Bernie Sanders’ presidential campaign via ActBlue.
13. Plaintiff Angela Monson (“Monson”) is a citizen of Minnesota. She contributed a total of \$350.00 to Bernie Sanders’ presidential campaign via ActBlue.

14. Plaintiff Aimee R. Coleman (“Coleman”) is a citizen of Tennessee. She contributed a total of \$2,544.13 to Bernie Sanders’ presidential campaign via ActBlue.

15. Plaintiff Elesha Snyder (“Snyder”) is a citizen of Ohio. She contributed a total of \$365.50 to Bernie Sanders’ presidential campaign via ActBlue.

16. Plaintiff Matthew Shaw (“M. Shaw”) is a citizen of Kansas. He contributed a total of \$222.00 to Bernie Sanders’ presidential campaign via ActBlue.

17. Plaintiff Zachary James Haney (“Haney”) is a citizen of Massachusetts. He contributed a total of \$91.50 to Bernie Sanders’ presidential campaign via ActBlue.

18. Plaintiff Estrella Gonzalez (“E. Gonzalez”) is a citizen of Ohio. She contributed a total of \$5.00 to Bernie Sanders’ presidential campaign via ActBlue.

19. Plaintiff Catherine G. Cyko (“Cyko”) is a citizen of Illinois. She contributed a total of \$1,156.00 to Bernie Sanders’ presidential campaign via ActBlue.

20. Plaintiff Laura Genna (“Genna”) is a citizen of New Jersey. She contributed a total of \$87.80 to Bernie Sanders’ presidential campaign via ActBlue.

21. Plaintiff Marianne Blair (“Blair”) is a citizen of Illinois. She contributed a total of \$2,669.50 to Bernie Sanders’ presidential campaign via ActBlue.

22. Plaintiff Tamara L. Johnston (“Johnston”) is a citizen of Missouri. She contributed a total of \$87.00 to Bernie Sanders’ presidential campaign via ActBlue.

23. Plaintiff Valerie Elyse Rasch (“Rasch”) is a citizen of Wisconsin. She contributed a total of \$47.00 to Bernie Sanders’ presidential campaign via ActBlue.

24. Plaintiff Brett Teegardin (“Teegardin”) is a citizen of Washington. He contributed a total of \$192.00 to Bernie Sanders’ presidential campaign via ActBlue.

25. Plaintiff Daniel O'Meara ("O'Meara") is a citizen of New Hampshire. He contributed a total of \$153.00 to Bernie Sanders' presidential campaign via ActBlue.

26. Plaintiff Peggy Lew ("Lew") is a citizen of Washington. She contributed a total of \$480.00 to Bernie Sanders' presidential campaign via ActBlue.

27. Plaintiff Daniel J. Reynolds ("Reynolds") is a citizen of Arkansas. He contributed a total of \$182.81 to Bernie Sanders' presidential campaign via ActBlue.

28. Plaintiff Brenda Lee Smith ("Smith") is a citizen of Florida. She contributed a total of \$4.00 to Bernie Sanders' presidential campaign via ActBlue.

29. Plaintiff Marlowe St. Cloud Primack ("Primack") is a citizen of California. She contributed a total of \$1,082.58 to Bernie Sanders' presidential campaign via ActBlue.

30. Plaintiff Patricia D. Cassidy ("Cassidy") is a citizen of Pennsylvania. She contributed a total of \$1,036.00 to Bernie Sanders' presidential campaign via ActBlue.

31. Plaintiff Brittany R. Musick ("Musick") is a citizen of Georgia. She contributed a total of \$19.00 to Bernie Sanders' presidential campaign via ActBlue.

32. Plaintiff Harris Bierhoff ("Bierhoff") is a citizen of California. He contributed a total of \$215.00 to Bernie Sanders' presidential campaign via ActBlue.

33. Plaintiff Felicia Michelle Taylor ("Taylor") is a citizen of Utah. She contributed a total of \$82.00 to Bernie Sanders' presidential campaign via ActBlue.

34. Plaintiff Susan L. Singer ("Singer") is a citizen of Illinois. She contributed a total of \$223.00 to Bernie Sanders' presidential campaign via ActBlue.

35. Plaintiff Kyle G. Braund ("Braund") is a citizen of Alabama. He contributed a total of \$54.00 to Bernie Sanders' presidential campaign via ActBlue.

36. Plaintiff Lauren Hale (“Hale”) is a citizen of Maine. She contributed a total of \$35.00 to Bernie Sanders’ presidential campaign via ActBlue.

37. Plaintiff William Crandall (“W. Crandall”) is a citizen of California. He contributed a total of \$1,705.34 to Bernie Sanders’ presidential campaign via ActBlue.

38. Plaintiff Kirsten Hurst (“Hurst”) is a citizen of Idaho. She contributed a total of \$2,447.00 to Bernie Sanders’ presidential campaign via ActBlue.

39. Plaintiff Duffy Robert Weiss (“Weiss”) is a citizen of North Dakota. He contributed a total of \$121.00 to Bernie Sanders’ presidential campaign via ActBlue.

40. Plaintiff Connie Anderson (“Anderson”) is a citizen of Texas. She contributed a total of approximately \$900.00 to Bernie Sanders’ presidential campaign via ActBlue.

41. Plaintiff Gregory Witkowski (“Witkowski”) is a citizen of New York. He contributed a total of \$445.00 to Bernie Sanders’ presidential campaign via ActBlue.

42. Plaintiff Elizabeth Figueroa (“Figueroa”) is a citizen of California. She contributed a total of \$246.50 to Bernie Sanders’ presidential campaign via ActBlue.

43. Plaintiff Brandy Kincaid (“Kincaid”) is a citizen of Tennessee. She contributed a total of \$314.24 to Bernie Sanders’ presidential campaign via ActBlue.

44. Plaintiff Kimberly Alberts (“Alberts”) is a citizen of Pennsylvania. She contributed a total of \$24.48 to Bernie Sanders’ presidential campaign via ActBlue.

45. Plaintiff Rachel Roderick (“Roderick”) is a citizen of Rhode Island. She contributed a total of \$599.15 to Bernie Sanders’ presidential campaign via ActBlue.

46. Plaintiff Laura Michelle Vaughn (“Vaughn”) is a citizen of Alaska. She contributed a total of \$238.80 to Bernie Sanders’ presidential campaign via ActBlue.

47. Plaintiff Lisa Gale (“Gale”) is a citizen of North Carolina. She contributed a total of \$730.37 to Bernie Sanders’ presidential campaign via ActBlue.

48. Plaintiff Tammy Deitch-Coulter (“Deitch-Coulter”) is a citizen of Michigan. She contributed a total of \$228.00 to Bernie Sanders’ presidential campaign via ActBlue.

49. Plaintiff Kayite Ashcraft (“Ashcraft”) is a citizen of Virginia. He contributed a total of \$2,447.00 to Bernie Sanders’ presidential campaign via ActBlue.

50. Plaintiff Alecia R. Davis (“A. Davis”) is a citizen of Montana. She contributed a total of \$531.00 to Bernie Sanders’ presidential campaign via ActBlue.

51. Plaintiff Dominic Ronzani (“Ronzani”) is a citizen of Florida. He contributed a total of \$38.54 to Bernie Sanders’ presidential campaign via ActBlue.

52. Plaintiff Luke Grim (“Grim”) is a citizen of Pennsylvania. He contributed a total of \$30.00 to Bernie Sanders’ presidential campaign via ActBlue.

53. Plaintiff Rosalie Consiglio (“Consiglio”) is a citizen of Maryland. She contributed a total of \$260.00 to Bernie Sanders’ presidential campaign via ActBlue.

54. Plaintiff Edwin Lugo (“Lugo”) is a citizen of New York. He contributed a total of \$53.00 to Bernie Sanders’ presidential campaign via ActBlue.

55. Plaintiff Heather Dade (“Dade”) is a citizen of Washington, DC. She contributed a total of \$110.00 to Bernie Sanders’ presidential campaign via ActBlue.

56. Plaintiff Michael S. Reed (“M. Reed”) is a citizen of Wyoming. He contributed a total of \$75.00 to Bernie Sanders’ presidential campaign via ActBlue.

57. Plaintiff Rhiannon Crandall (“R. Crandall”) is a citizen of Texas. She contributed a total of approximately \$1.00 to Bernie Sanders’ presidential campaign via ActBlue.

58. Plaintiff Ryan Ghan (“Ghan”) is a citizen of Nevada. He contributed a total of \$431.25 to Bernie Sanders’ presidential campaign via ActBlue.

59. Plaintiff Lisa Settle (“Settle”) is a citizen of California. She contributed a total of \$1,255.40 to Bernie Sanders’ presidential campaign via ActBlue.

60. Plaintiff Yalonda Dye Cooper (“Y. Cooper”) is a citizen of Michigan. She contributed a total of 139.00 to Bernie Sanders’ presidential campaign via ActBlue.

61. Plaintiff Daniel S. Cooper (“D. Cooper”) is a citizen of Michigan. He contributed a total of \$110.00 to Bernie Sanders’ presidential campaign via ActBlue.

62. Plaintiff Matthew Joseph Brady (“Brady”) is a citizen of Delaware. He contributed a total of \$1,220.00 to Bernie Sanders’ presidential campaign via ActBlue.

63. Plaintiff Andrew Rousseau (“Rousseau”) is a citizen of Vermont. He contributed a total of \$290.00 to Bernie Sanders’ presidential campaign via ActBlue.

64. Plaintiff Susan Catterall (“Catterall”) is a citizen of Indiana. She contributed a total of \$127.00 to Bernie Sanders’ presidential campaign via ActBlue.

65. Plaintiff Julie Hampton (“Hampton”) is a citizen of Iowa. She contributed a total of \$277.00 to Bernie Sanders’ presidential campaign via ActBlue.

66. Plaintiff Chris Bubb (“Bubb”) is a citizen of North Carolina. He contributed a total of \$92.39 to Bernie Sanders’ presidential campaign via ActBlue.

67. Plaintiff Erik Furreboe (“Furreboe”) is a citizen of Arizona. He contributed a total of \$13.00 to Bernie Sanders’ presidential campaign via ActBlue.

68. Plaintiff Zeke Shaw (“Z. Shaw”) is a citizen of Georgia. He contributed a total of \$3.00 to Bernie Sanders’ presidential campaign via ActBlue.

69. Plaintiff Benjamin Ilarraza (“Ilarraza”) is a citizen of Texas. He contributed a total of \$225.00 to Bernie Sanders’ presidential campaign via ActBlue.

70. Plaintiff Lucille Grooms (“Grooms”) is a citizen of Idaho. She contributed a total of \$284.00 to Bernie Sanders’ presidential campaign via ActBlue.

71. Plaintiff Christine Maiurano (“Maiurano”) is a citizen of New York. She contributed a total of \$530.50 to Bernie Sanders’ presidential campaign via ActBlue.

72. Plaintiff Lewis L. Humiston, IV (“Humiston”) is a citizen of Washington. He contributed a total of \$108.00 to Bernie Sanders’ presidential campaign via ActBlue.

73. Plaintiff John Lynch (“J. Lynch”) is a citizen of Florida. He contributed a total of \$1,349.00 to Bernie Sanders’ presidential campaign via ActBlue.

74. Plaintiff James Simon (“Simon”) is a citizen of New York. He contributed a total of \$2,700.00 to Bernie Sanders’ presidential campaign via ActBlue.

75. Plaintiff Lester John Bates, III (“Bates”) is a citizen of Hawaii. He contributed a total of approximately \$390.00 to Bernie Sanders’ presidential campaign via ActBlue.

76. Plaintiff Jeffrey Goldberg (“Goldberg”) is a citizen of Colorado. He contributed a total of \$82.00 to Bernie Sanders’ presidential campaign via ActBlue.

77. Plaintiff Rick Washik (“Washik”) is a citizen of New York. He contributed a total of \$304.20 to Bernie Sanders’ presidential campaign via ActBlue.

78. Plaintiff Richard Booker (“Booker”) is a citizen of Virginia. He contributed a total of \$228.37 to Bernie Sanders’ presidential campaign via ActBlue.

79. Plaintiff Karlie Cole (“Cole”) is a citizen of Minnesota. She contributed a total of \$226.00 to Bernie Sanders’ presidential campaign via ActBlue.

80. Plaintiff Erich Sparks (“Sparks”) is a citizen of New York. He contributed a total of \$382.80 to Bernie Sanders’ presidential campaign via ActBlue.

81. Plaintiff Prabu Gopalakrishnan (“Gopalakrishnan”) is a citizen of Illinois. He contributed a total of \$191.00 to Bernie Sanders’ presidential campaign via ActBlue.

82. Plaintiff Carlos Villamar (“Villamar”) is a citizen of Virginia. He contributed a total of \$195.00 to Bernie Sanders’ presidential campaign via ActBlue.

83. Plaintiff Carolyn Jacobson (“Jacobson”) is a citizen of California. She contributed a total of \$300.00 to Bernie Sanders’ presidential campaign via ActBlue.

84. Plaintiff Dan Ellis Dudley (“Dudley”) is a citizen of Massachusetts. He contributed a total of \$773.50 to Bernie Sanders’ presidential campaign via ActBlue.

85. Plaintiff Lisa Anne Meneely (“Meneely”) is a citizen of California. She contributed a total of \$105.00 to Bernie Sanders’ presidential campaign via ActBlue.

86. Plaintiff D.J. Buschini (“Buschini”) is a citizen of Massachusetts. He contributed a total of \$13.00 to Bernie Sanders’ presidential campaign via ActBlue.

87. Plaintiff Raymond D. Maxwell (“Maxwell”) is a citizen of Washington, District of Columbia. He contributed a total of \$114.00 to Bernie Sanders’ presidential campaign via ActBlue.

88. Plaintiff David L. Meuli (“Meuli”) is a citizen of Alaska. He contributed a total of \$423.50 to Bernie Sanders’ presidential campaign via ActBlue.

89. Plaintiff Kenneth E. Puckett (“Puckett”) is a citizen of Oregon. He contributed a total of \$1,972.26 to Bernie Sanders’ presidential campaign via ActBlue.

90. Plaintiff David N. Pyles (“Pyles”) is a citizen of New Hampshire. He contributed a total of \$1,005.50 to Bernie Sanders’ presidential campaign via ActBlue.

91. Plaintiff Cynthia T. Chan (“Chan”) is a citizen of Georgia. She contributed a total of \$111.00 to Bernie Sanders’ presidential campaign via ActBlue.

92. Plaintiff Stefanie Birdsong (“Birdsong”) is a citizen of Colorado. She contributed a total of \$159.00 to Bernie Sanders’ presidential campaign via ActBlue.

93. Plaintiff Amber Rae Knowlton (“Knowlton”) is a citizen of Massachusetts. She contributed a total of \$277.50 to Bernie Sanders’ presidential campaign via ActBlue.

94. Plaintiff Timo A. Johann (“Johann”) is a citizen of North Carolina. He contributed a total of \$35.00 to Bernie Sanders’ presidential campaign via ActBlue.

95. Plaintiff Jeff Rogers (“Rogers”) is a citizen of Washington. He contributed a total of \$160.00 to Bernie Sanders’ presidential campaign via ActBlue.

96. Plaintiff Heather Jordan (“Jordan”) is a citizen of Arkansas. She contributed a total of \$26.50 to Bernie Sanders’ presidential campaign via ActBlue.

97. Plaintiff Rana Kangas-Kent (“Kangas-Kent”) is a citizen of California. She contributed a total of \$156.00 to Bernie Sanders’ presidential campaign via ActBlue.

98. Plaintiff Susan Frisbie (“Frisbie”) is a citizen of California. She contributed a total of \$1,456.80 to Bernie Sanders’ presidential campaign via ActBlue.

99. Plaintiff Bakh Inamov (“Inamov”) is a citizen of California. He contributed a total of \$187.00 to Bernie Sanders’ presidential campaign via ActBlue.

100. Plaintiff Theda Larson-Wright (“Larson-Wright”) is a citizen of New Mexico. She contributed a total of \$1,012.65 to Bernie Sanders’ presidential campaign via ActBlue.

101. Plaintiff Kirsten Hoffman (“Hoffman”) is a citizen of Massachusetts. She contributed a total of \$2,700.00 to Bernie Sanders’ presidential campaign via ActBlue.

102. Plaintiff Anthony Grudin (“Grudin”) is a citizen of Vermont. He contributed a total of \$64.00 to Bernie Sanders’ presidential campaign via ActBlue.

103. Plaintiff Bruce Busto (“Busto”) is a citizen of Florida. He contributed a total of \$375.00 to Bernie Sanders’ presidential campaign via ActBlue.

104. Plaintiff Suzanne M. Cork (“Cork”) is a citizen of Nevada. She contributed a total of \$10 to the Defendant, DNC Services Corporation D/B/A Democratic National Committee (the “DNC”) in 2016.

105. Plaintiff Emma L. Young (“Young”) is a citizen of Illinois. She contributed a total of \$15 to the DNC between December 2015 and January 2016. She contributed online.

106. Plaintiff Sean Lynch (“S. Lynch”) is a citizen of Virginia. He contributed a total of \$3 to the DNC in 2016. He contributed online.

107. Plaintiff Sherry Davis (“S. Davis”) is a citizen of Washington. She contributed a total of \$173 to the DNC in 2015-2016. She contributed in various ways, including online at [www.democrats.org](http://www.democrats.org).

108. Plaintiff Nancy Berners-Lee (“Berners-Lee”) is a citizen of Massachusetts. She contributed a total of \$100 to the DNC on or about July 20, 2015. She contributed by check.

109. Plaintiff Phyllis Criddle (“Criddle”) is a citizen of Massachusetts. She contributed a total of \$18 to the DNC on or about May 16, 2016. She contributed by check.

110. Plaintiff Melissa Liang (“Liang”) is a citizen of Michigan. She is a registered Democrat, and has been for the past 16 years.

111. Plaintiff Joseph Gleason (“Gleason”) is a citizen of Washington. He is a registered Democrat, and has been for the past eight years.

112. Plaintiff Greta Mickey (“Mickey”) is a citizen of New York. She is a registered Democrat, and has been for over 10 years.

113. Plaintiff Diane Emily Dreyfus (“Dreyfus”) is a citizen of Maryland. She is a registered Democrat, and has been for over 40 years.

114. Plaintiff Kathleen L. Dodge (“Dodge”) is a citizen of Massachusetts. She is a registered Democrat, and has been for 46 years.

115. Plaintiff Catherine Willott (“Willott”) is a citizen of California. She is a registered Democrat, and has been for 32 years.

116. Plaintiff Tristan Burgener (“Burgener”) is a citizen of Arizona. He is a registered Democrat, and has been for three years.

117. Plaintiff Erik Michael Ferragut (“Ferragut”) is a citizen of Tennessee. He is a registered Democrat, and has been for 20 years.

118. Plaintiff Vincent J. Cauchi, Jr. (“Cauchi”) is a citizen of California. He is a registered Democrat, and has been for 40 years.

119. Plaintiff Joseph Callan (“Callan”) is a citizen of California. He is a registered Democrat, and has been for over five years.

120. Plaintiff Mark Bedard (“Bedard”) is a citizen of New York. He is a registered Democrat, and has been for eight years.

121. Plaintiff Barbara Bowen (“Bowen”) is a citizen of Louisiana. She is a registered Democrat, and has been for the past 15 years.

122. Plaintiff Steve Philipp (“Philipp”) is a citizen of New York. He is a registered Democrat, and has been for the past 16 years.

123. Plaintiff Susan Phillips (“Phillips”) is a citizen of Wisconsin. She is a registered Democrat, and has been for over 40 years.

124. Plaintiff Richard Boylan (“Boylan”) is a citizen of California. He is a registered Democrat, and has been for over 35 years.

125. Plaintiff Teri Monaco (“Monaco”) is a citizen of Florida. She is a registered Democrat, and has been for over 10 years.

126. Plaintiff Tukoi Jarrett (“Jarrett”) is a citizen of Illinois. He is a registered Democrat, and has been for 22 years.

127. Plaintiff AnnMarie Wilson (“Wilson”) is a citizen of Texas. She is a registered Democrat, and has been for 41 years.

128. Plaintiff Andrew Orrino (“Orrino”) is a citizen of Connecticut. He is a registered Democrat, and has been for nine years.

129. Plaintiff Craig Richard Currier (“Currier”) is a citizen of Oregon. He is a registered Democrat, and has been for approximately 12 years.

130. Plaintiff Jarath Hemphill (“Hemphill”) is a citizen of New York. He is a registered Democrat, and has been for the past 34 years.

131. Plaintiff George Thomas (“Thomas”) is a citizen of Washington. He is a registered Democrat, and has been for the past 35 years.

132. Plaintiff Rebecca White-Hayes (“White-Hayes”) is a citizen of Illinois. She is a registered Democrat, and has been for the past 22 years.

133. Plaintiff Alaina Talboy (“Talboy”) is a citizen of Florida. She is a registered Democrat, and has been for over 10 years.

134. Plaintiff Sarah López (“López”) is a citizen of Oregon. She is a registered Democrat, and has been for the past 16 years.

135. Plaintiff Eliza Feero (“Feero”) is a citizen of New York. She is a registered Democrat, and has been for the past 13 years.

136. Plaintiff Rebecca Hohm (“Hohm”) is a citizen of Missouri. She is a registered Democrat, and has been for the past 30 years.

137. Plaintiff Gayle Ann Harrod (“Harrod”) is a citizen of Maryland. She is a registered Democrat, and has been for approximately 30 years.

138. Plaintiff Erika Sitzer (“Sitzer”) is a citizen of North Carolina. She is a registered Democrat, and has been for approximately eight years.

139. Plaintiff Stephen Houseknecht (“Houseknecht”) is a citizen of New York. He is a registered Democrat, and has been for the past 44 years.

140. Plaintiff Diane Robinson (“Robinson”) is a citizen of California. She is a registered Democrat, and has been for approximately 28 years.

141. Plaintiff Jen Betterley (“Betterley”) is a citizen of Washington. She is a registered Democrat, and has been for at least 10 years.

142. Plaintiff Amalie Duvall (“Duvall”) is a citizen of Missouri. She is a registered Democrat, and has been for approximately 23 years.

143. Plaintiff John Crowe (“Crowe”) is a citizen of Nebraska. He is a registered Democrat, and has been for approximately five years.

144. Plaintiff Carl Miller (“Miller”) is a citizen of North Carolina. He is a registered Democrat, and has been for the past 24 years.

145. Plaintiff Susan Roppel (“Roppel”) is a citizen of Michigan. She is a registered Democrat, and has been for approximately 32 years.

146. Plaintiff Diana Flores (“Flores”) is a citizen of Tennessee. She is a registered Democrat, and has been for the past eight years.

147. Plaintiff Julianna Seymour (“Seymour”) is a citizen of New York. She is a registered Democrat, and has been for the last 13 years.

148. Plaintiff Melissa Marcotte (“Marcotte”) is a citizen of Rhode Island. She is a registered Democrat, and has been for approximately 13 years.

149. Plaintiff Danielle Ingrassia (“Ingrassia”) is a citizen of California. She is a registered Democrat, and has been for over eight years.

150. Plaintiff Alette Prichett (“Prichett”) is a citizen of California. She is a registered Democrat, and has been for over 15 years.

151. Plaintiff Torsha Childs (“Childs”) is a citizen of New York. She is a registered Democrat, and has been for over 25 years.

152. Plaintiffs represent only a fraction of the individuals who are willing and able to serve as class representatives in this action. In the past several weeks, over 1,000 additional members of the proposed classes have volunteered to be class representatives, and have retained undersigned counsel in order to do so. Within the same timeframe, undersigned counsel have received over 13,000 inquiries from potential class members seeking information about the suit, and inquiries continue to come in.

### **Defendants**

153. Defendant, DNC Services Corporation, d/b/a Democratic National Committee (the “DNC”), at all times relevant hereto, was and is a not-for-profit corporation organized under

the laws of the District of Columbia and is the operating body of the United States Democratic Party. The DNC maintains its principal place of business at 430 South Capitol Street Southeast in Washington, District of Columbia.

154. Defendant, Deborah “Debbie” Wasserman Schultz (“Wasserman Schultz”) has been the Chairperson of the DNC since 2011. Wasserman Schultz is a citizen of Florida with offices in Pembroke Pines, Florida, and Aventura, Florida, in addition to offices in Washington, D.C.

### **Non-Party**

155. Non-party ActBlue is a United States political action committee established in June 2004 that enables online fundraising for Democratic Party campaigns. ActBlue charges a 3.95% “processing” fee for each contribution. Some Plaintiffs utilized ActBlue’s online services to make the contributions referred to herein.

### **GENERAL FACTS**

156. The DNC is the formal governing body for the United States Democratic Party. The DNC is responsible for coordinating strategy in support of Democratic Party candidates for local, state, and national office.

157. As part of its duties, the DNC organizes the Democratic National Convention every four years to nominate and confirm a candidate for President, and establishes rules for the state caucuses and primaries that choose delegates to the convention.

158. Since 2011, Wasserman Schultz has been Chairperson of the DNC. Wasserman Schultz has also served as the U.S. Representative for Florida’s 23rd congressional district since 2013; before then, she represented Florida’s 20th district in the U.S. House of Representatives starting in 2005.

159. The DNC is governed by the Charter and Bylaws of the Democratic Party. These governing documents expressly obligate the DNC to maintain a neutral posture with respect to candidates seeking the party's nomination for President during the nominating process. Article 5, Section 4 of the Charter states:

The National Chairperson shall serve full time and shall receive such compensation as may be determined by agreement between the Chairperson and the Democratic National Committee. In the conduct and management of the affairs and procedures of the Democratic National Committee, particularly as they apply to the preparation and conduct of the Presidential nominating process, the Chairperson **shall exercise impartiality and evenhandedness** as between the Presidential candidates and campaigns. The Chairperson shall be responsible for ensuring that the national officers and staff of the Democratic National Committee **maintain impartiality and evenhandedness** during the Democratic Party Presidential nominating process.

(emphasis added).

160. Consistent with what the Charter requires, the DNC, through Wasserman Schultz and other employees, and from the very beginning of the presidential race, has consistently and publicly affirmed its impartiality and evenhandedness with respect to the nominating process for the Democratic nominee for President in 2016. For example:

- a) A September 3, 2015 article in *Politico* reporting on Wasserman Schultz's relationships with Hillary Clinton and Joe Biden quoted Wasserman Schultz as saying, "I count both Secretary Clinton and Vice President Biden as dear friends,

but no matter who comprises our field of candidates it's my job to run a neutral primary process and that's what I am committed to doing[.]”<sup>1</sup>

b) A September 16, 2015 article in *The Daily Beast* on the Democratic candidate debate schedule quoted DNC spokesperson Holly Shulman (“Shuman”) as stating, “[t]he DNC runs an impartial primary process.”<sup>2</sup>

c) Shulman was also quoted in an article appearing in the Daily Mail Online (UK) on October 16, 2015, as stating, “[t]he DNC runs an impartial primary process, period.”<sup>3</sup>

d) In a CNN appearance on May 17, 2016, where she discussed alleged “violence” by supporters of Bernie Sanders at the Nevada State Democratic

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<sup>1</sup> See Edward-Isaac Dovere & Marc Caputo, “Wasserman Schultz’s divided loyalties,” **Politico**, available at <http://www.politico.com/story/2015/09/debbie-wasserman-schultz-joe-biden-hillary-clinton-2016-loyalty-213294> (last visited June 20, 2016).

<sup>2</sup> See Olivia Nuzzi, “Is the Democratic National Committee in the Tank for Hillary?,” **The Daily Beast**, available at <http://www.thedailybeast.com/articles/2015/09/16/is-the-democratic-national-committee-in-the-tank-for-hillary.html> (last visited June 20, 2016).

<sup>3</sup> See David Martosko, “Democratic National Committeewoman says her party is ‘clearing a path’ for Hillary because ‘the women in charge’ want it that way,” available at <http://www.dailymail.co.uk/news/article-3273404/Democratic-National-Committeewoman-says-party-clearing-path-Hillary-women-charge-want-way.html> (last visited June 20, 2016).

Convention, Wasserman Schultz stated that, “[t]he Democratic National Committee remains neutral in this primary, based on our rules.”<sup>4</sup>

e) In a statement quoted by the Associated Press on May 21, 2016, while discussing Sanders’ endorsement of her primary opponent for Congress, Wasserman Schultz stated, “[e]ven though Senator Sanders has endorsed my opponent, I remain, as I have been from the beginning, neutral in the presidential Democratic primary.”<sup>5</sup>

161. Despite the requirements in the Charter, and in spite of the multiple public declarations of neutrality and impartiality with respect to the Democratic primary process, the DNC was not neutral. To the contrary, the DNC was biased in favor of one candidate – Hillary Clinton (“Clinton”) – from the beginning and throughout the process. The DNC devoted its considerable resources to supporting Clinton above any of the other Democratic candidates. Through its public claims to being neutral and impartial, the DNC actively concealed its bias from its own donors as well as donors to the campaigns of Clinton’s rivals, including Bernie Sanders (“Sanders”).

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<sup>4</sup> The video may be viewed on the internet at [http://www.realclearpolitics.com/video/2016/05/17/debbie\\_wasserman\\_schultz\\_what\\_happened\\_at\\_nevada\\_convention\\_was\\_unacceptable\\_sanders\\_added\\_fuel\\_to\\_the\\_fire.html](http://www.realclearpolitics.com/video/2016/05/17/debbie_wasserman_schultz_what_happened_at_nevada_convention_was_unacceptable_sanders_added_fuel_to_the_fire.html) (last visited June 20, 2016).

<sup>5</sup> See Tribune news services, “Sanders says he is backing opponent of DNC chair Wasserman Schultz,” **Chicago Tribune** (May 21, 2016), *available at* <http://www.chicagotribune.com/news/nationworld/politics/ct-sanders-dnc-chair-20160521-story.html> (last visited June 20, 2016).

162. The truth of the DNC's deception started to come to public light in June 2016.

163. On June 14, 2016, officials of the DNC announced that Russian government hackers had penetrated its computer network. The hackers had access to the network for approximately one year. According to the Washington Post, "[t]he intruders so thoroughly compromised the DNC's system that they also were able to read all email and chat traffic" – but in the same article, "[t]he DNC said that no financial, donor or personal information appears to have been accessed or taken[.]"<sup>6</sup>

164. The same day, CrowdStrike – a network security consulting firm retained by the DNC to investigate and respond to the breach – publicly released more details. According to CrowdStrike, two separate hacker groups affiliated with the Russian government, codenamed "Cozy Bear" and "Fancy Bear," were detected as having infiltrated the DNC network. Both groups have a long history of successfully targeting sensitive government and industry computer networks in both the United States and other countries, often using "sophisticated phishing attacks." CrowdStrike concluded that Cozy Bear's intrusion of the DNC network began in summer of 2015, while Fancy Bear separately breached it in April 2016.<sup>7</sup>

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<sup>6</sup> See Ellen Nakashima, "Russian government hackers penetrated DNC, stole opposition research on Trump," **The Washington Post** (June 14, 2016), *available at* [https://www.washingtonpost.com/world/national-security/russian-government-hackers-penetrated-dnc-stole-opposition-research-on-trump/2016/06/14/cf006cb4-316e-11e6-8ff7-7b6c1998b7a0\\_story.html](https://www.washingtonpost.com/world/national-security/russian-government-hackers-penetrated-dnc-stole-opposition-research-on-trump/2016/06/14/cf006cb4-316e-11e6-8ff7-7b6c1998b7a0_story.html) (last visited June 23, 2016).

<sup>7</sup> See Dmitri Alperovitch, "Bears in the Midst: Intrusion into the Democratic National Committee," **CrowdStrike Blog** (June 14, 2016, updated June 15, 2016), *available at* <https://www.crowdstrike.com/blog/bears-midst-intrusion-democratic-national-committee/> (last visited June 23, 2016); Michael Kan, "Russian hackers breach DNC computers, steal data on Donald Trump," **PCWorld** (June 14, 2016), *available at* <http://www.pcworld.com/article/3083440/security/russian-hackers-breach-dnc-computers-steal-data-on-trump.html> (last visited June 23, 2016).

165. On June 15, 2016, an individual using the name “Guccifer 2.0” established a publicly accessible website (<https://guccifer2.wordpress.com>) and posted a statement taking credit for the DNC server hack.<sup>8</sup> Below the statement, Guccifer 2.0 posted a series of documents purportedly taken from the DNC’s servers including: (a) a 281-page confidential “Donald Trump Report” purportedly submitted to the DNC on 12/19/15 and containing extensive research on the presumptive Republican presidential nominee; (b) Excel spreadsheets containing the names and personal information of donors to the Democratic Party and Hillary Clinton’s campaign; and (c) a 59-page memorandum marked “Secret” setting forth national security and foreign policy “promises and proposals” and purportedly obtained from Clinton’s personal computer.<sup>9</sup>

166. Among the documents released by Guccifer 2.0 on June 15th is a two-page Microsoft Word file with a “Confidential” watermark that appears to be a memorandum written to the Democratic National Committee regarding “2016 GOP presidential candidates” and dated May 26, 2015. A true and correct copy of this document (hereinafter, “DNC Memo”) is attached as **Exhibit 1**.<sup>10</sup>

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<sup>8</sup> See Ellen Nakashima, “‘Guccifer 2.0’ claims credit for DNC hack,” **The Washington Post** (June 15, 2016), *available at* [https://www.washingtonpost.com/world/national-security/guccifer-20-claims-credit-for-dnc-hack/2016/06/15/abdcdf48-3366-11e6-8ff7-7b6c1998b7a0\\_story.html](https://www.washingtonpost.com/world/national-security/guccifer-20-claims-credit-for-dnc-hack/2016/06/15/abdcdf48-3366-11e6-8ff7-7b6c1998b7a0_story.html) (last visited June 23, 2016).

<sup>9</sup> Guccifer 2.0, “DNC’s Servers Hacked By A Lone Hacker,” *available at* <https://guccifer2.wordpress.com/2016/06/15/dnc/> (last visited June 23, 2016).

<sup>10</sup> Despite being asked the question repeatedly, the DNC has never confirmed or denied the authenticity of any of the documents released by Guccifer 2.0. See Reno Berkeley, “DNC Tight-Lipped About Authenticity Of Documents From Guccifer 2.0 Hack,” **Inquisitr** (June 17, 2016), *available at* <http://www.inquisitr.com/3212344/dnc-tight-lipped-about-authenticity-of-documents-from-guccifer-2-0-hack/> (last visited June 24, 2016).

167. The DNC Memo presents, “a suggested strategy for positioning and public messaging around the 2016 Republican presidential field.” It states that, “Our goals in the coming months will be to frame the Republican field and the eventual nominee early and to provide a contrast between the GOP field and HRC.”<sup>11</sup> (emphasis added). The DNC Memo also advises that the DNC, “[u]se specific hits to muddy the waters around ethics, transparency and campaign finance attacks on HRC.” In order to “muddy the waters” around Clinton’s perceived vulnerabilities, the DNC Memo suggests “several different methods” of attack including: (a) “[w]orking through the DNC” to “utilize reporters” and create stories in the media “with no fingerprints”; (b) “prep[ping]” reporters for interviews with GOP candidates and having off-the-record conversations with them; (c) making use of social media attacks; and (d) using the DNC to “insert our messaging” into Republican-favorable press.

168. By the date of the DNC Memo, the Democratic presidential nomination field already included, in addition to Clinton, Bernie Sanders, who announced his candidacy on April 30, 2015.<sup>12</sup> And at the time, there was also widespread speculation that others would soon enter the primary race including Joe Biden, Lincoln Chafee, Martin O’Malley, Elizabeth Warren, and Jim Webb.<sup>13</sup>

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<sup>11</sup> “HRC” is short for Hillary Rodham Clinton.

<sup>12</sup> See Dan Merica, “Bernie Sanders is running for president,” **CNN Politics** (Apr. 30, 2015), available at <http://www.cnn.com/2015/04/29/politics/bernie-sanders-announces-presidential-run/> (last visited June 23, 2016).

<sup>13</sup> See Newsday.com with the Associated Press, “2016 presidential race: Possible Democratic candidates,” **Newsday** (Apr. 29, 2015), available at <http://www.newsday.com/news/nation/democrats-who-may-run-for-president-in-2016-from-clinton-to-biden-1.9988978> (last visited June 23, 2016). Of these, only Joe Biden and Elizabeth Warren ultimately decided not to run.

169. Despite there being every indication that the 2016 Democratic primary would be contested by multiple candidates, including Sanders, the DNC Memo makes no mention of any Democratic candidate except Clinton, and builds the DNC's election strategy on the assumption that Clinton will be the nominee, with no doubts attached. Rather than reflecting an "impartial" or "evenhanded" approach to the nominating process, as required by the Charter, the DNC Memo strongly indicates that the DNC's entire approach to the process was guided by the singular goal of elevating Clinton to the general election contest.

170. On June 18 and 21, 2016, Guccifer 2.0 released additional files purportedly taken from the DNC's servers. Among these documents are even more items that appear to be of a highly sensitive nature including: (a) multiple spreadsheets of donors to the DNC and other organizations, including the Clinton Foundation, containing personal information such as names, email addresses, and phone numbers; (b) a "private and confidential" memorandum to Secretary of Defense Ashton Carter from a senior advisor regarding appointments to the Joint Chiefs of Staff; (c) fee, travel, and lodging requirements for Clinton's paid speeches; (d) Clinton's tax returns; and (e) thousands of pages of research, apparently prepared by DNC staff as well as Clinton's campaign staff, relating to Clinton's candidacy including her "vulnerabilities," potential attacks, rebuttals, policy positions, and opposition research on the other Democratic candidates.<sup>14</sup>

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<sup>14</sup> See "DNC Researched Clinton Speeches, Travel Records," **The Smoking Gun** (June 21, 2016), available at <http://www.thesmokinggun.com/documents/crime/dnc-researched-clinton-speeches-travel-records-621985> (last visited June 24, 2016); Salam Marcos, "Guccifer 2.0: 'Neutral' DNC Staff Conducted Research for Clinton," **Progressive Army**, (June 21, 2016) available at <http://progressivearmy.com/2016/06/21/guccifer-2-0-dnc-conducted-research-clinton/> (last visited June 24, 2016); Stephen K. Bannon & Alexander Marlow, "Secret Memo: 42-Page Leaked DNC Document Reveals Clinton Foundation Scandal 'Vulnerabilities' For Hillary Clinton," **Breitbart** (June 21, 2016),

171. These additional files entail further, substantial evidence that the DNC was anything but “impartial,” “evenhanded,” or “neutral” with respect to the Democratic nominating process. To the contrary, and in spite of the governing Charter and its multiple public statements, the DNC devoted its resources to propelling Clinton’s candidacy ahead of all of her rivals, even if this meant working directly against the interests of Democratic Party members, including Bernie Sanders’ supporters.

172. All conditions precedent to the commencement and prosecution to final judgment of this civil action have taken place, have been performed, or have been waived or excused by Defendants.

173. Plaintiffs have been compelled to engage the services of the undersigned attorneys and to pay them a reasonable fee.

### **CLASS ACTION ALLEGATION**

174. Plaintiffs bring this lawsuit on behalf of themselves and the proposed class members under Rules 23(b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, as noted below.

175. There are three proposed classes (hereinafter collectively referred to as the “Classes”):

- a) All people or entities who have contributed to the DNC from January 1, 2015 through the date of this action (“DNC Donor Class”);

- b) All people or entities who have contributed to the Bernie Sanders campaign from January 1, 2015 through the date of this action (“Sanders Donor Class”); and
- c) All registered members of the Democratic Party (“Democratic Party Class”).<sup>15</sup>

176. Plaintiffs, Cork, Young, S. Lynch, S. Davis, Berners-Lee, and Criddle bring this action on behalf of themselves and the DNC Donor Class. Hereinafter, they will be referred to collectively as the “DNC Donor Class Plaintiffs.”

177. Plaintiffs, Wilding, Rifken, Crawford, Franz, Pulaski, Welch, J. Gonzalez, Plattner, Houle, Bingen, S. Reed, Monson, Coleman, Snyder, M. Shaw, Haney, E. Gonzalez, Cyko, Genna, Blair, Johnston, Rasch, Teegardin, O’Meara, Lew, Reynolds, Smith, Primack, Cassidy, Musick, Bierhoff, Taylor, Singer, Braund, Hale, W. Crandall, Hurst, Weiss, Anderson, Witkowski, Figueroa, Kincaid, Alberts, Roderick, Vaughn, Gale, Deitch-Coulter, Ashcraft, A. Davis, Ronzani, Grim, Consiglio, Lugo, Dade, M. Reed, R. Crandall, Ghan, Settle, Y. Cooper, D. Cooper, Brady, Rousseau, Catterall, Hampton, Bubb, Furreboe, Z. Shaw, Ilarraza, Grooms, Maiurano, Humiston, J. Lynch, Simon, Bates, Goldberg, Washik, Booker, Cole, Sparks, Gopalakrishnan, Villamar, Jacobson, Dudley, Meneely, Buschini, Maxwell, Meuli, Puckett, Pyles, Chan, Birdsong, Knowlton, Johann, Rogers, Jordan, Kangas-Kent, Frisbie, Inamov, Larson-Wright, Hoffman, Grudin, and Busto bring this action on behalf of themselves and the

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<sup>15</sup> Specifically excluded from the class definitions are Defendants; the officers, directors, or employees of Defendants; any entity in which Defendants have a controlling interest; and any affiliate, legal representative, heir, or assign of Defendants. Also excluded are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

Sanders Donor Class. Hereinafter, they will be referred to collectively as the “Sanders Donor Class Plaintiffs.”

178. Plaintiffs, Liang, Gleason, Mickey, Dreyfus, Dodge, Willott, Burgener, Ferragut, Cauchi, Callan, Bedard, Bowen, Philipp, Phillips, Boylan, Monaco, Jarrett, Wilson, Orrino, Currier, Hemphill, Thomas, White-Hayes, Talboy, Lopez, Feero, Hohm, Harrod, Sitzer, Houseknecht, Robinson, Betterley, Duvall, Crowe, Miller, Roppel, Flores, Seymour, Marcotte, Ingrassia, Prichett, and Childs bring this action on behalf of themselves and the Democratic Party Class. Hereinafter, they will be referred to collectively as the “Democratic Party Class Plaintiffs.”

179. **Numerosity.** The members of each of the Classes are so numerous that their individual joinder is impracticable.

180. **Existence and Predominance of Common Questions of Law and Fact.** Common questions of law and fact exist as to all members of the Classes and predominate over any questions affecting only individual members of the Classes.

181. **Typicality.** Plaintiffs’ claims are typical of the claims of the members of the Classes they seek to represent, and Plaintiffs have the same claims as those of the other class members they seek to represent.

182. **Adequacy of Representation.** Plaintiffs will fairly and adequately protect the interests of the members of their respective Classes. Plaintiffs have retained counsel highly experienced in class action litigation, and Plaintiffs intend to prosecute this action vigorously. Plaintiffs have no adverse or antagonistic interests to those of the Classes.

183. The prosecution of separate actions by individual members of the Classes would create a risk of inconsistent or varying adjudications with respect to individual members of the

Classes which would establish incompatible standards of conduct for the parties opposing the Classes.

184. Defendants acted on grounds generally applicable to the Classes with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to each of the Classes as a whole.

## **CAUSES OF ACTION**

### **COUNT I**

#### **(Fraud) (DNC Donor Class & Sanders Donor Class)**

185. The DNC Donor Class Plaintiffs and the Sanders Donor Class Plaintiffs re-allege paragraphs 1 through 184 above as if fully set forth herein.

186. Defendants knowingly made false statements and omissions concerning material facts.

187. Defendants intended that the false statements and omissions would induce the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class, to rely on them.

188. The DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class, relied on Defendants' false statements and omissions to their injury.

189. Defendants' conduct was intentional, willful, wanton, and malicious. Defendants had actual knowledge of the wrongfulness of the conduct and the high probability that injury to the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury.

190. Defendants' conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class.

## **COUNT II**

### **(Negligent Misrepresentation) (DNC Donor Class & Sanders Donor Class)**

191. The DNC Donor Class Plaintiffs and the Sanders Donor Class Plaintiffs re-allege paragraphs 1 through 184 above as if fully set forth herein.

192. Defendants made misrepresentations and omissions concerning material facts.

193. At the time of the misrepresentations and omissions, Defendants either knew them to be false, made them without knowledge of the truth or falsity, or should have known them to be false.

194. Defendants intended that the misrepresentations and omissions would induce the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class, to rely on them.

195. The DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class, justifiably relied on Defendants' misrepresentations and omissions to their injury.

196. Defendants' conduct was intentional, willful, wanton, and malicious. Defendants had actual knowledge of the wrongfulness of the conduct and the high probability that injury to the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury.

197. Defendants' conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of The DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class and members of the DNC Donor Class and Sanders Donor Class.

### **COUNT III**

#### **(Violation of § 28-3904 of the D.C. Code) (DNC Donor Class & Sanders Donor Class)**

198. The DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class re-allege paragraphs 1 through 184 above as if fully set forth herein.

199. For purposes of the allegations in this complaint, the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class, are "consumers" pursuant to subsection 28-3901(a)(2) of the District of Columbia Code.

200. For purposes of the allegations in this complaint, Defendants are "persons" pursuant to subsection 28-3901(a)(1) of the District of Columbia Code.

201. Defendants misrepresented as to material facts that had a tendency to mislead the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class.

202. Defendants failed to state material facts, and such failure tended to mislead the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class.

203. As such, Defendants violated subsections 28-3904(e) and 28-3904(f) of the District of Columbia Code.

204. Defendants' conduct was intentional, willful, wanton, and malicious. Defendants had actual knowledge of the wrongfulness of the conduct and the high probability that injury to the DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury.

205. Defendants' conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of The DNC Donor Class Plaintiffs, the Sanders Donor Class Plaintiffs, and members of the DNC Donor Class and the Sanders Donor Class.

#### **COUNT IV**

##### **(Unjust Enrichment) (DNC Donor Class)**

206. The DNC Donor Class Plaintiffs re-allege paragraphs 1 through 184 above as if fully set forth herein.

207. The DNC Donor Class Plaintiffs and members of the DNC Donor Class conferred benefits on the Defendants, who had knowledge thereof.

208. Defendants voluntarily accepted and retained the benefits conferred.

209. The circumstances are such that it would be inequitable for the Defendants to retain the benefits without paying the value thereof to the DNC Donor Class Plaintiffs and members of the DNC Donor Class.

210. Defendants' conduct was intentional, willful, wanton, and malicious. Defendants had actual knowledge of the wrongfulness of the conduct and the high probability that injury to the DNC Donor Class Plaintiffs and members of the DNC Donor Class would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury.

211. Defendants' conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of the DNC Donor Class Plaintiffs and members of the DNC Donor Class.

**COUNT V**

**(Breach of Fiduciary Duty)  
(Democratic Party Class)**

212. The Democratic Party Class Plaintiffs re-allege paragraphs 1 through 184 above as if fully set forth herein.

213. Defendants had a fiduciary duty to the Democratic Party Class Plaintiffs and members of the Democratic Party Class.

214. Defendants breached their fiduciary duty to the Democratic Party Class Plaintiffs and members of the Democratic Party Class.

215. The Democratic Party Class Plaintiffs and members of the Democratic Party Class have been proximately damaged by Defendants' breach.

216. Defendants' conduct was intentional, willful, wanton, and malicious. Defendants had actual knowledge of the wrongfulness of the conduct and the high probability that injury to the Democratic Party Class Plaintiffs and members of the Democratic Party Class would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury.

217. Defendants' conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of the Democratic Party Class Plaintiffs and members of the Democratic Party Class.

**COUNT VI**

**(Negligence)  
(DNC Donor Class)**

218. The DNC Donor Class Plaintiffs as re-allege paragraphs 1 through 184 above as if fully set forth herein.

219. Defendants owed a duty to the DNC Donor Class Plaintiffs and members of the DNC Donor Class to use and exercise reasonable and due care in obtaining, retaining, and securing the personal and financial information provided to them in connection with their contributions to the DNC.

220. Defendants owed a duty to the DNC Donor Class Plaintiffs and members of the DNC Donor Class to provide security, consistent with industry standards and requirements, to ensure that the DNC's computer systems and networks, and the personnel responsible for them, adequately protected the personal and financial information of the DNC Donor Class Plaintiffs and members of the DNC Donor Class.

221. Defendants owed a duty of care to the DNC Donor Class Plaintiffs and members of the DNC Donor Class because they were a foreseeable and probable victim of any inadequate data security practices. Defendants solicited, gathered, and stored the sensitive financial and personal data provided by the DNC Donor Class Plaintiffs and members of the DNC Donor Class to facilitate their contributions. Defendants knew they inadequately safeguarded this information on the DNC computer systems and that sophisticated hackers routinely attempted to access this valuable data without authorization. Defendants knew that a breach of the system would inflict considerable damages upon the DNC Donor Class Plaintiffs and members of the DNC Donor Class, and Defendants were therefore charged with a duty to adequately protect this critically sensitive information.

222. Defendants maintained a special relationship with the DNC Donor Class Plaintiffs and members of the DNC Donor Class. The DNC Donor Class Plaintiffs and members of the DNC Donor Class entrusted Defendants with their personal and financial information on the assumption that Defendants would safeguard this information, and Defendants were in a position to protect against the harm suffered by the DNC Donor Class Plaintiffs and members of the DNC Donor Class as a result of the network breaches.

223. In light of their special relationship with the DNC Donor Class Plaintiffs and members of the DNC Donor Class, Defendants knew, or should have known, of the risks inherent in collecting and storing the personal and financial information of the DNC Donor Class Plaintiffs and members of the DNC Donor Class, and the importance of providing adequate security of that information.

224. Defendants breached the duties they owed to the DNC Donor Class Plaintiffs and members of the DNC Donor Class by failing to exercise reasonable care and implement adequate security protocols – including protocols consistent with industry standards – sufficient to protect the personal and financial information of the DNC Donor Class Plaintiffs and members of the DNC Donor Class.

225. Defendants breached the duties they owed to the DNC Donor Class Plaintiffs and members of the DNC Donor Class by failing to properly implement technical systems or security practices that could have prevented the theft of the information at issue.

226. Defendants breached the duties they owed to the DNC Donor Class Plaintiffs and members of the DNC Donor Class by failing to properly maintain the sensitive personal and financial information of the DNC Donor Class Plaintiffs and members of the DNC Donor Class.

Given the risk involved and the amount of data at issue, Defendants breach of their duties was entirely unreasonable.

227. As a direct and proximate result of Defendants' negligent conduct, the DNC Donor Class Plaintiffs and members of the DNC Donor Class have suffered injury and are entitled to damages in an amount to be proven at trial.

228. Defendants' conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the safety and rights of the DNC Donor Class Plaintiffs and members of the DNC Donor Class.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for a judgment:

229. For declaratory and injunctive relief declaring illegal and enjoining, preliminarily and permanently, Defendants' violation of and failure to follow the Charter and Bylaws of the Democratic Party;

230. Certification of this action as a class action, designation of Plaintiffs as class representatives and undersigned counsel as class counsel;

231. For compensatory, general, restitutionary, restorative, statutory, treble, and special damages for Plaintiffs against Defendants;

232. Exemplary/punitive damages as against Defendants in an amount sufficient to deter and to make an example of Defendants;

233. Attorneys' fees and costs;

234. Prejudgment and post-judgment interest; and

235. The cost of this suit and such other relief as the court finds just and proper.

**JURY DEMAND**

236. Plaintiffs demand a jury trial on all issues so triable.

DATED: November 24, 2017

RESPECTFULLY SUBMITTED,

/s/ Jared H. Beck

By: Jared H. Beck

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Counsel for Plaintiffs and the Proposed Classes

# Exhibit 1

To: The Democratic National Committee  
Re: 2016 GOP presidential candidates  
Date: May 26, 2015

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Below, please find a suggested strategy for positioning and public messaging around the 2016 Republican presidential field. Ultimately, we need to

## Our Goals & Strategy

Our goals in the coming months will be to frame the Republican field and the eventual nominee early and to provide a contrast between the GOP field and HRC. Over the long-term, these efforts will be aimed at getting us the best match-up in the general election, and weakening the eventual nominee through the course of the primary. We have outlined three strategies to obtain our goal:

- 1) Highlight when GOP candidates are outside of the mainstream on key issues, ideally driving the rest of the field to follow with positions that will hurt them in a general election;
- 2) Damage Republican presidential candidates' credibility with voters by looking for targeted opportunities to undermine their specific messaging;
- 3) Use specific hits to muddy the waters around ethics, transparency and campaign finance attacks on HRC

## Operationalizing the Strategy

### *Highlighting Extreme or Unpopular Positions*

There are two ways to approach the strategies mentioned above. The first is to use the field as a whole to inflict damage on itself similar to what happened to Mitt Romney in 2012. The variety and volume of candidates is a positive here, and many of the lesser known can serve as a cudgel to move the more established candidates further to the right. In this scenario, we don't want to marginalize the more extreme candidates, but make them more "Pied Piper" candidates who actually represent the mainstream of the Republican Party. In these issues, we would elevate statements and policies from any candidate—including second and third-tier candidates—on issues that will make them seem too far to the right on social issues and too far from the priorities of everyday Americans on economic issues.

### *Undermining Their Message & Credibility, Based on our General Election Priorities*

In addition to pinning down the field on key issues, we will work to undermine the Republican candidate's specific messaging, while keeping in mind which candidates and which messages we believe are most powerful. These messages and the responses to them will change given new campaign positioning and new learnings from polling and research, but on these issues, we will keep the focus on the most likely candidates to allow some possibility for growth with the weaker candidates.

- Jeb Bush
  - What to undermine: the notion he is a "moderate" or concerned about regular Americans; perceived inroads with the Latino population.
- Marco Rubio

- What to undermine: the idea he has “fresh” ideas; his perceived appeal to Latinos and younger voters
- Scott Walker
  - What to undermine: his Wisconsin record, particularly on jobs; the idea he can rally working- and middle class Americans.
- Rand Paul
  - What to undermine: the idea he is a “different” kind of Republican; his stance on the military and his appeal to millennials and communities of color.
- Chris Christie
  - What to undermine: his success as governor, his hypocrisy in telling it like it is vs. his ethical issues and acts of a typical politician.

### *Muddying the Waters*

As we all know, the right wing attack machine has been building its opposition research on Hillary Clinton for decades. HRC's critics have been telegraphing they are ready to attack and do so with reckless abandon. While reporters have much less of an appetite for ethics stories about GOP candidates, we will utilize the research to place highly targeted hits—for example, GOP candidates taking positions supported by their major super PAC donors.

### **Tactics**

Working with the DNC and allied groups, we will use several different methods to land these attacks, including:

- **Reporter Outreach:** Working through the DNC and others, we should use background briefings, prep with reporters for interviews with GOP candidates, off-the-record conversations and oppo pitches to help pitch stories with no fingerprints and utilize reporters to drive a message.
- **Releases and Social Media:** Where appropriate these attacks can be leveraged for more public release, particularly the attacks around specific issues where a public release can point out that Republicans are outside of the mainstream.
- **Bracketing Events:** Both the DNC and outside groups are looking to do events and press surrounding Republican events to insert our messaging into their press and to force them to answer questions around key issues.

We look forward to discussing this strategy further. Our goal is to use this conversation to answer the questions who do we want to run against and how best to leverage other candidates to maneuver them into the right place.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 26, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document was served by U.S. First Class Mail on all counsel identified on the attached service list.

/s/ Jared H. Beck

Jared H. Beck

**SERVICE LIST**

***Carol Wilding et al. v. DNC Services Corporation et al.***  
**11<sup>th</sup> Circuit Court of Appeals Case No. 17-14194**

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